

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 4 OF 22

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1 is what murder means. It means simply as it
2 sounds, that they intended to kill somebody,
3 they went out to kill them, they were motivated
4 with evil intent, no reason, no rhyme or reason
5 for doing it, they just did it out of a mean
6 spirit and they killed an individual. So
7 that's what we're talking about.

8 We are not talking about, 'well, they
9 were upset' and they got in a fight or that
10 there was something that aggravated them and
11 they killed them there, manslaughter, self-
12 defense, accident or mistake. This was the
13 person, they did it, now they're guilty of
14 that.

15 In this state, being in that situation,
16 there would be a second phase where you would
17 hear additional evidence, evidence that you
18 haven't heard. You've heard all about the
19 crime but this would be evidence that would be
20 useful and essential for a jury to consider in
21 determining the appropriate sentence. Do you
22 understand that?

23 A. Yes, sir.

24 Q. Am I to understand that as a type three
25 juror, notwithstanding that you'd just found

1 somebody guilty of the serious crime of murder,
2 you still would have an open mind as to what
3 the appropriate sentence was?

4 A. I think so.

5 Q. I appreciate that answer. Let me follow
6 up with this, people say 'I think I could', 'I
7 believe that I could', 'I'd try to', and I
8 understand that. That's a very human response.
9 The question that I have is this, as a juror
10 you would have in that situation raised your
11 hand and promised the State and the person who
12 was accused that you would keep an open mind at
13 all times throughout the trial and would change
14 that only when you were instructed to begin
15 your deliberations. That you would have made a
16 decision consistent with the law and your view
17 of the facts of the case and in this setting
18 what you're saying is that -- in that setting
19 -- that jury would have had to have had an open
20 mind about the appropriate sentence for the
21 crime of murder, because you would have found
22 him guilty beyond a reasonable doubt of murder.
23 No question about it. That's been established.
24 Are you a person that would be in that position
25 or is your philosophy such that you'd say, 'No,

1 I think I'd probably be more inclined to one
2 sentence or another.'

3 A. I think I would have to evaluate all the
4 data and make the decision once I saw all the
5 information.

6 Q. And "all of the data" would be that
7 additional evidence that you would have to hear
8 in the second phase?

9 A. Yes.

10 Q. You understand that?

11 A. Yes.

12 Q. You would be able to make a commitment
13 that you would not have had any predetermined
14 sentence at that point?

15 A. I don't believe so.

16 Q. You don't think you would or you don't
17 think you could make that commitment?

18 A. Well, I don't know that I could make that
19 commitment because I don't know what the
20 evidence that I would have seen up to that
21 point ---

22 Q. Well, understand something. Typically in
23 most situations in this case the jury doesn't
24 even have anything to do with the sentence on a
25 murder. Do you understand that?

1 A. (No verbal response).

2 Q. All the jury does most of the time is
3 decide whether the State has proven the crime;
4 in other words, proved that person committed
5 that particular crime. As I told you on
6 Friday, the State has the burden of proving
7 each element beyond a reasonable doubt.

8 A. (Affirmative nod).

9 Q. And until and unless they do, that person
10 is innocent of those charges and that would
11 carry the day. If they didn't do it, the jury
12 has to return a verdict of not guilty. Do you
13 understand that?

14 A. Right.

15 Q. But if they convinced that jury beyond a
16 reasonable doubt of the offense of murder,
17 normally once that jury returns a verdict of
18 guilty then the judge would impose a sentence.
19 The sentence in that situation, that the judge
20 would impose, there is a remote situation but
21 typically does not happen, the judge most of
22 the time, and typically, the only sentence --
23 the most serious sentence that can be imposed
24 would be life imprisonment without the
25 possibility of parole. The judge could not

1 impose a death sentence in that situation. He
2 is not bound to life imprisonment without the
3 possibility of parole but he can't -- he or she
4 could not give more than that.

5 It is only when a jury is selected because
6 the State has alleged and raised that there are
7 certain circumstances that change this from a
8 normal murder. We call those aggravating
9 circumstances. That is what the second phase
10 -- that is one of the things that the second
11 phase is about.

12 The second phase is where the jury has to
13 first determine that aggravating circumstances
14 exist before you can even consider the death
15 penalty. Otherwise, you can't even consider
16 it, the law says that it is not available.

17 So you can begin to see why it is so
18 important when I ask you if you have an open
19 mind because you can't even think about
20 imposing a death sentence until a jury -- until
21 the State has convinced you that an aggravating
22 circumstance exists.

23 That is part of what you're talking about,
24 that you have to evaluate all, I assume is what
25 you mean. You'd have to go through that entire

1 process.

2 And you'd have another charge. Just as
3 you would be instructed on the law in the first
4 phase, there would be an instruction on the law
5 in the second phase. I would tell you about
6 aggravating circumstances. They are
7 statutorily provided. An example of that would
8 be if someone is convicted of killing a police
9 officer and the jury finds that that was done
10 beyond a reasonable doubt, then that is an
11 aggravating circumstance; which then allows the
12 jury to consider a death penalty, in addition
13 life imprisonment without the possibility of
14 parole.

15 If the jury -- the jury would be
16 instructed in the second phase that if the
17 State fails to prove an aggravating
18 circumstance, then the only sentence that you
19 can return is life without parole. You can't
20 even consider it without that. Do you
21 understand that?

22 A. (Affirmative nod).

23 Q. But it would be further instructed that if
24 the jury is convinced that an aggravating
25 circumstance has been established, then they

1 may consider a death sentence but they are not
2 required to return a death sentence. In other
3 words, the court is not going to tell you that
4 you have to return a death sentence if such and
5 such exists.

6 It just simply means that if you find that
7 now, in addition to life without parole, you
8 may now consider imposing a death sentence but
9 you have to consider all the evidence, you'd be
10 instructed to consider all evidence presented,
11 that is presented to assist you in making that
12 determination of what the appropriate sentence
13 would be.

14 Am I understanding you that you at this
15 point still don't have a pre--, -- one way or
16 the other, life imprisonment without the
17 possibility of parole or a death sentence,
18 you'd still have to go through the entire
19 process?

20 A. I would have to go through the process.

21 Q. Okay. All right. Because part of that
22 instruction would be that even -- even when you
23 determine that there is an aggravating
24 circumstance and you have the right to return a
25 death sentence, a jury can return a life

1 without parole. Do you understand that?

2 A. I understand that.

3 Q. And you could consider that and make that
4 decision, between -- assuming you were given
5 the choice -- of which one you thought was most
6 appropriate, but it would have to be based on
7 all the circumstances; is that correct?

8 A. Yes, sir.

9 Q. Okay. Because in addition to that I would
10 instruct you that the record may contain
11 mitigating circumstances. Mitigating
12 circumstances are circumstances that -- some
13 are statutory, some are nonstatutory. Some of
14 them are addictions that the person may have
15 had, mental illness problems that don't rise to
16 insanity but would be a factor that the jury
17 maybe should consider in fashioning a sentence
18 -- the raising of the person, what sort of
19 problems may have happened in childhood that
20 may have some influence or affect on the
21 sentence that you would impose.

22 If those are present, the jury would be
23 instructed that they have to give meaningful
24 consideration to those mitigating circumstances
25 before deciding between life or death. You

1 would be able to follow that instruction?

2 A. Absolutely.

3 Q. And you would give meaningful
4 consideration to those?

5 A. Yes, sir.

6 Q. Some of them may not have anything in the
7 world to do with the crime itself but they are
8 factors that the court would find that you have
9 to consider, and you would do that; is that
10 correct?

11 A. Yes, sir.

12 Q. Okay. I would further instruct you that,
13 just as I would in the first phase, in that
14 setting that the State has the burden of proof
15 in both phases. The defendant, the person who
16 is accused of the crime has no burden. That
17 would include mitigating circumstances. They
18 don't have to prove anything at all. You
19 couldn't hold that against them. I assume you
20 would be able to follow that instruction, as
21 well.

22 A. Yes, sir.

23 Q. And if there weren't any mitigating
24 circumstances, you wouldn't hold that against
25 the defendant?

1 A. No.

2 Q. That is important for a lot of reasons
3 because, I would tell you, you can't do that.
4 But another very important reason is because
5 the instruction would further say, even where
6 there aren't any mitigating circumstances, that
7 the jury still has the right, for no reason
8 whatsoever, to return -- notwithstanding that
9 they could return a death sentence, they could
10 still vote to say, 'No, we believe the
11 appropriate sentence is life without parole.'
12 Do you understand that?

13 A. Yes, sir.

14 Q. So it is my understanding that as a type
15 three juror that you would have to go through
16 all of that process and have to have the
17 benefit of exchange with your fellow jurors and
18 then you could make a decision as to which one
19 was most appropriate? Is that correct?

20 A. That's correct.

21 Q. And there are circumstances, and I'm not
22 asking you to tell me what they are, but there
23 are circumstances that at the end of that
24 process that you believe in which you could
25 vote for a life sentence without the

1 possibility of parole notwithstanding that you
2 could have imposed a death sentence?

3 A. Yes, sir.

4 Q. And there are circumstances where you
5 could have imposed a life without parole but
6 you would choose to impose a death sentence?

7 A. Possibly.

8 Q. Well, there -- could you do that if you
9 found those circumstances existed?

10 A. Yes, I think I could.

11 Q. Well, you have to sign a form that I would
12 give you -- it is not just voting, you would
13 have to put your name and say it's a death
14 sentence. You would sign that as one of the
15 jurors. You could do that?

16 A. Yes, sir.

17 Q. If you felt, after considering it all,
18 that that ---

19 A. Yes, sir.

20 Q. --- would be the appropriate sentence?

21 A. Yes, sir.

22 Q. Okay. Now, let's talk about this
23 particular case. As I mentioned to you -- just
24 for a few moments.

25 Mr. Dickerson has been accused of

1 committing some criminal offenses. We talked
2 about the fact that you didn't have any problem
3 with the presumption of innocence. As I
4 understand, that's still your position?

5 A. Yes, sir.

6 Q. Okay. And of course that means -- it's an
7 active presumption, ---

8 A. (Affirmative nod).

9 Q. --- it means that as you see Mr. Dickerson
10 today that he is innocent of these charges, as
11 far as you're concerned?

12 A. Correct.

13 Q. And you understand that the only person
14 that has any burden of proving anything is the
15 State?

16 A. Yes, sir.

17 Q. And I would tell you in a trial, if you
18 were empaneled, that Mr. Dickerson -- that you
19 would never look to him to prove or disprove
20 anything at all, he has no obligation
21 whatsoever. You would be able to follow that
22 instruction?

23 A. Yes, sir.

24 Q. And I would tell you that persons accused
25 of criminal offenses such as Mr. Dickerson

1 don't even have to put up evidence if they
2 don't want to, and you would be instructed not
3 to view that against them. In fact, they don't
4 have to testify. Do you understand that?

5 A. Yes, sir.

6 Q. You would have no problem following that
7 instruction?

8 A. No.

9 Q. And as I understand, you would have --
10 nothing about this case would give you any
11 concern about your ability to apply your common
12 sense, your sense of logic and reasoning fairly
13 and impartially in analyzing the evidence,
14 which is the testimony of the witnesses and
15 exhibits, deciding what you believe to be the
16 truth? Then once deciding that, taking the law
17 as I gave it to you and applying that law
18 fairly and impartially? Is that correct?

19 A. Correct.

20 Q. Even though you may hear something which
21 may cause you to say, 'Wait a minute, I didn't
22 think that was the law' or 'that's not what I
23 believe.' I would respect your right to
24 believe otherwise, but you would make a
25 commitment that you would set that aside and

1 you would be able to do that and follow my
2 instruction. Is that correct?

3 A. I don't quite understand what you're
4 saying.

5 Q. Well, sometimes people hear some law and
6 they may say, 'I don't think that's the law, I
7 don't think the Judge is right.' Or, 'I don't
8 think that should be the law.' Or, 'That's not
9 consistent with what I believe and therefore I
10 don't care what the Judge is telling me, I am
11 going to do what I've been doing all my life
12 and I'm going to disregard the instruction.'
13 That happens. I am not saying that it will, I
14 am just saying that it could.

15 I am saying that if you hear something,
16 you have to make a commitment that if you had
17 that thought, you'd have to promise the State
18 and Mr. Dickerson and this Court that you would
19 set that aside and take the law as I give it to
20 you. Because we have two judges working
21 together. I don't have anything to do with the
22 factual determinations but you don't have
23 anything to do with the legal aspects of it.
24 Do you understand that?
25 A. I understand.

1 Q. Would you be able to do that?

2 A. Yes.

3 Q. And you'd be able to make that commitment?

4 A. Yes, sir.

5 THE COURT: Thank you, sir. Please
6 answer any questions that the attorneys may
7 have for you.

8 MR. BLOOM: May it please the court?

9 THE COURT: Yes, sir.

10 VOIR DIRE EXAMINATION

11 BY MR. BLOOM:

12 Q. Mr. Johnson, good afternoon, sir.

13 A. Yes, sir.

14 Q. My name is Jeff Bloom and along with
15 Andrew Carroll, we represent William Dickerson.
16 I just have a few followup questions from what
17 Judge Dennis asked you.

18 Can I just ask you, kind of right off the
19 bat, what your general opinion or feeling is
20 about the death penalty?

21 A. My general feelings are that, as I
22 mentioned on the questionnaire, that I think
23 that there possibly are cases where it is
24 warranted.

25 Q. Okay.

1 A. It's not something that I think should be
2 taken too lightly or perhaps used too
3 liberally.

4 Q. Okay. Can you explain to me what you mean
5 by that? I think I know what you mean but I
6 don't want to assume.

7 A. Well, I just think that it is -- as the
8 Judge mentioned, it probably has to do with the
9 aggravating nature of certain crimes. You
10 know, in my limited understanding of the law
11 there are different degrees of murder. There's
12 first degree, second degree, and I don't know
13 how many other degrees but -- again, it just
14 goes back to each individual situation. I
15 don't think that you can make a blanket
16 statement as to -- well, I can't personally,
17 categorically, say whether it should never be
18 used or sometimes be used -- I think that it
19 should sometimes be used.

20 Q. Okay. In general, do you feel that it is
21 used too much or not enough or about right?

22 A. I don't really have a feeling for that, to
23 be honest with you.

24 Q. Fair enough.

25 A. It's just not something that I follow that

1 closely.

2 Q. Okay. Fair enough. At one point when you
3 were answering Judge Dennis' questions, you
4 hesitated a bit and told him that you didn't
5 know if you could make a commitment, at a
6 certain point in time, to keep an open mind I
7 think about sentencing. It was during the
8 point where Judge Dennis, I believe, was asking
9 you if you would have kind of a predetermined
10 decision, if you as a juror found someone
11 guilty of malice murder and -- I was trying to
12 write it down and I didn't get it all, you said
13 something to the effect, 'I don't know if I
14 could make a commitment'.

15 A. Well, ---

16 Q. Can you just explain to me what you meant
17 by that, by your hesitation?

18 A. Well, the way that I understand it is that
19 apparently we're going to receive, as a juror,
20 additional information after you've made a
21 decision as to guilt or innocence, and whether
22 the State has proved its case, that the Judge
23 is going to instruct the jury, you know, as to
24 the specifics of the law and -- other,
25 additional information.

1 Q. Yes.

2 A. So I don't see how you can say in advance
3 whether you're going to commit to anything or
4 not commit if you don't have all the
5 information.

6 Q. I see. Okay.

7 A. That's what I meant by that.

8 Q. I understand.

9 A. I am not going to commit either way to
10 anything until I've received every bit of the
11 data.

12 Q. I appreciate you explaining that to me.

13 A. Okay.

14 Q. Let me go back and ask you just a few more
15 questions about the process and I'll try not to
16 repeat what Judge Dennis asked but I want to
17 define a few terms.

18 One of the terms that Judge Dennis defined
19 for us was "murder." He not you that in this
20 state it is where someone did it, intended to
21 do it, with malice, an evil heart, that they
22 got the right person. I know you in one of
23 your responses talked about first degree and
24 second degree murder and I just want to clarify
25 for you that South Carolina is one of those

1 states that we don't have degrees of murder.

2 A. Okay.

3 Q. That's fine, that's fine, you wouldn't be
4 expected to know that. There are some folks,
5 though, that feel once malice murder is proven
6 to them, that they've got the right person
7 beyond a reasonable doubt, no questions asked,
8 that they are going to automatically vote for
9 the death penalty at that point, they don't
10 need the rest of that information after that
11 kind of first phase.

12 A. (Affirmative nod)

13 Q. Can you just tell me -- I think I know
14 where you are but I don't want to assume --
15 your response at that point in time, once
16 you've -- if you're a juror and you have
17 resolved the first phase, found someone guilty
18 of that malice murder, did it, set out to do
19 it, found the person and did it, do you have a
20 predetermined view as to the sentence at that
21 point in time?

22 A. I don't think so.

23 Q. Okay. I am not trying to reask what Judge
24 Dennis asked but you've clarified for me some
25 of your responses, so I appreciate that.

1 Judge Dennis also you -- well, let me
2 rephrase. Some jurors feel that once they go
3 into that extra phase where they are going to
4 weigh life without parole and the death
5 penalty, that they just want to focus on the
6 facts of the crime; that there is nothing about
7 the person's background or childhood or drug
8 addictions -- that type of data, isn't
9 relevant. I take it from your responses that
10 that type of data or information that may have
11 nothing to do with the crime is relevant and
12 important to you.

13 A. Yes, sir.

14 Q. Because that's the type of thing that you
15 would want to hear? You'd want all the data?

16 A. Yes, because as the Judge said there may
17 be some mitigating issues, as well as the
18 aggravating issues.

19 Q. Okay. Just to help you understand the
20 process, because I appreciate your honesty that
21 the process is new to you, when we talk about
22 aggravation, as Judge Dennis said, that's like
23 murder and the murder of a police officer;
24 murder and an armed robbery; murder and
25 something else. Again there are some people

1 that, once they hear that, they're done. I
2 take it that's not you, that you still don't
3 have a predetermined ---

4 SOLICITOR WILSON: Judge, I object.
5 It's been asked and answered.

6 THE COURT: I will allow this one
7 question.

8 MR. BLOOM: Yes, sir.

9 EXAMINATION CONTINUED

10 BY MR. BLOOM:

11 Q. You don't have a predetermined opinion?

12 A. No, sir.

13 Q. Lastly, sir, you understood Judge Dennis'
14 instruction that the death penalty is never
15 required.

16 A. (Affirmative nod).

17 Q. All right. In fact, the law states that
18 your choice about life without parole or a
19 death sentence is an individualized, reasoned,
20 moral judgment. You can accept that, I take
21 it?

22 A. Yeah.

23 Q. All right. If after you'd heard all the
24 evidence and all the circumstances and all the
25 information and discussed it all with every

State of South Carolina v. William O. Dickerson
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1 juror, listened to them and they'd listened to
2 you and you all had come to your own
3 individualized and moral, reasoned judgment, if
4 eleven jurors feel one way and you were feeling
5 another, you could stand to your moral,
6 individualized judgment and not just give your
7 vote up to go along to get along?

8 A. They would have to convince me somehow to
9 change how I felt.

10 Q. Okay, and you'd be open to discussion.

11 A. Sure.

12 Q. I am not suggesting that but, you know,
13 some jurors just say, 'You know what? It is
14 late, I'm...' ---

15 A. I'm not going to cave in to just get out
16 of there.

17 Q. I didn't think that but I had to ask.

18 A. Okay.

19 Q. You would ask them to respect your vote?

20 A. Yeah.

21 Q. You would respect theirs?

22 A. Yes, sir.

23 MR. BLOOM: Thank you, sir.

24 THE COURT: Solicitor, any

25 questions.

1 SOLICITOR WILSON: Mr. Johnson, I'm
2 Scarlet Wilson, I'm the Solicitor here. This
3 is Bruce Durant and Rutledge Durant and the
4 three of us will be the ones presenting
5 evidence once we get started. Based on your
6 answers to Mr. Bloom's questions and the
7 Judge's questions, I don't have anything else
8 for you. Thank you, sir.

9 THE COURT: Thank you, Solicitor.
10 Thank you, Mr. Johnson. I am going to ask you
11 to step out just for a few moments. We will be
12 with your momentarily.

13 (JUROR NUMBER 157 EXITS COURTROOM)

14 THE COURT: I find him to be
15 qualified. Any objection from the State?

16 SOLICITOR WILSON: No, sir.

17 THE COURT: Any objection from the
18 defendant?

19 MR. BLOOM: No, sir.

20 THE COURT: Thank you. Ask him to
21 come in, please.

22 (JUROR NUMBER 157 ENTERS COURTROOM)

23 THE COURT: Thank you very much, Mr.
24 Johnson. You've been found to be qualified to
25 be a member of the panel from which we will

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1 select our jury.

2 We expect that to take place on
3 Thursday at 9:30. That is what we are hoping
4 for. As you have already seen, these things
5 tend to run over and we have a few more panels
6 to go through tomorrow but we are hoping to be
7 ready at that time.

8 When you're instructed to return, you
9 will need to come to this courtroom and take a
10 seat out there. When you are instructed to
11 return, know that we will pick our jury and
12 then we will start the trial. So if you're
13 selected, you will be expected to remain with
14 us and complete the day's work, so be prepared
15 to do that if necessary.

16 Also, until then and until you have
17 been dismissed from this case, please remember
18 that you still are not at liberty to discuss
19 this case with anyone or permit anyone to talk
20 with you about it. Also, please continue not
21 to watch any news programs about it or read any
22 news accounts. Have a great day and we'll see
23 you, hopefully, Thursday. Okay?

24 JUROR NUMBER 157: Yes, sir.

25 Will someone contact me?

1 THE COURT: I'm glad you said that,
2 because we need for you to call the number
3 after 6:00 tonight. There will be a message.
4 The message may say/confirm what I said, the
5 panel -- what it will say is that the Dickerson
6 jury panel needs to report Thursday at 9:30.
7 If that is the message, then come. It may say
8 to call back tomorrow night after 6:00. If
9 that is the case, then you'll know we still
10 aren't sure about that. If it says what I've
11 said I think it's going to say, then just be
12 here Thursday. Thank you, sir.

13 JUROR NUMBER 157: Great.

14 THE COURT: Have a good day.

15 JUROR NUMBER 157: Thank you.

16 THE COURT: Hopefully we will see
17 you Thursday.

18 (JUROR NUMBER 157 EXITS COURTROOM)

19 THE COURT: Last one, in this panel,
20 is Mr. Simmons.

21 (JUROR NUMBER 392 ENTERS COURTROOM)

22 THE COURT: Mr. Simmons, good
23 afternoon to you, sir. Thank you for your
24 patience in this matter. How are you?

25 JUROR NUMBER 392: I'm great.

1 THE COURT: We won't detain you much
2 longer. We are going to continue the process
3 that we started on Friday. You will recall
4 when we were last together that we were asking
5 you a number of questions, and we want to
6 continue that. I may have -- I am going to
7 have some questions for you and the attorneys
8 may have some questions for you.

9 If you remember, Mr. Simmons, there
10 really are no correct answers to any of these
11 questions. They really are designed to help
12 you and to help us decide whether you can be a
13 fair and impartial juror or not. Okay?

14 JUROR NUMBER 392: Okay.

15 THE COURT: Likewise, we certainly
16 aren't asking you to change how you think or
17 believe, nor are we trying to invade your
18 privacy.

19 JUROR NUMBER 392: Okay.

20 THE COURT: We just need for you to
21 be honest with your answers and give us
22 complete answers to the questions. I am
23 confident that you will do that. Okay?

24 JUROR NUMBER 392: Yes, sir..

25 THE COURT: I would remind you in

1 that regard that you are still under oath in
2 this matter. Okay?

3 JUROR NUMBER 392: Okay.

4 ORTEZ SIMMONS, being duly sworn to
5 tell the truth, the whole truth and nothing but
6 the truth, testified, as follows:

7 VOIR DIRE EXAMINATION

8 BY THE COURT:

9 Q. First let me ask you, since we were last
10 together have you talked with anyone or
11 permitted anyone to talk with you or to talk
12 about this case in your presence?

13 A. No.

14 Q. Have you read any news accounts or watched
15 news programs about this case?

16 A. No.

17 Q. Friday I gave you the names of a number of
18 people and asked if you were related to any of
19 those persons. I failed to mention two names
20 that I need to ask you about. Are you related
21 by blood or marriage, have any business
22 dealings with or socially or casually
23 acquainted with or have any dealings with Jeff
24 Osborne or Matt Casey? Do you know them?

25 A. No, I do not.

1 Q. When you came, you were given a sheet that
2 identified three types of jurors.

3 A. (Affirmative nod).

4 Q. Have you had an opportunity to review
5 those three jurors?

6 A. Yes, sir.

7 Q. Of the three types listed on that sheet,
8 which type most accurately describes you?

9 A. Type two.

10 Q. Type two is the juror that basically, as I
11 understand it, and I will share my understand-
12 ing to see if we are together. Obviously in
13 that situation of those three types, there are
14 jurors that are involved in a murder case where
15 they are going to have to determine the
16 appropriate sentence for that person.

17 A. (Affirmative nod).

18 Q. At that stage where the question comes,
19 they would have already found that a person is
20 guilty of the crime of murder. Okay?

21 A. Yes, sir.

22 Q. Now, and it is in very limited
23 situations, they are going to have to make the
24 choice of what the appropriate sentence is
25 going to be. They are going to -- there is

1 going to be a second phase where they are going
2 to hear additional evidence in addition to the
3 evidence of the crime. Now they are going to
4 hear evidence concerning -- there would be
5 information important to determining a
6 sentence. Okay? For this person.

7 A. (Affirmative nod).

8 Q. A number of things would occur, one of
9 which that that they would have to first
10 determine whether they are even entitled to
11 consider a death penalty because not every
12 murder is it entitled for the jury to consider
13 a death penalty. They have to find beyond a
14 reasonable doubt in the second phase, first,
15 that there was at least one aggravating
16 circumstance that existed and they have to find
17 that beyond a reasonable doubt for the jury to
18 even consider a death sentence. Do you
19 understand that?

20 A. Yes, sir.

21 Q. But as I understand, as a type two juror,
22 once you found that person guilty of murder, it
23 would be your position that the only sentence
24 which would be appropriate for that crime would
25 be life imprisonment without the possibility of

1 parole?

2 A. Yes, sir.

3 Q. And if you were to go into the second
4 phase where you heard all the evidence and the
5 judge instructed you that if you found
6 aggravating circumstances and you were a part
7 of that jury and had that instruction and that
8 jury and you concluded, beyond a reasonable
9 doubt, that the State had established the
10 existence of an aggravating circumstance, now
11 that you have the right to consider it, you
12 couldn't even consider it as part of your
13 philosophy; is that right?

14 A. Right.

15 Q. Because there is no circumstance that
16 exists that you could think of that would
17 warrant you imposing a death sentence?

18 A. Right.

19 Q. None whatsoever?

20 A. None.

21 THE COURT: Please answer any
22 questions that the attorneys may have.

23 VOIR DIRE EXAMINATION

24 BY SOLICITOR WILSON:

25 Q. Mr. Simmons, I'm Scarlet Wilson, I'm the

1 Solicitor here. This is Bruce Durant and
2 Rutledge Durant. They are also prosecutors in
3 my case -- my office -- sorry, it's been a long
4 day for us, too.

5 When we get started in this case, the
6 three of us are going to be presenting the
7 evidence for the jury and the judge. Before
8 that, I need to follow up on some of your
9 answers to Judge Dennis and also your
10 questionnaire. Okay?

11 A. Okay.

12 Q. First of all, I want to assure you that
13 there aren't any right or wrong answers,
14 because we're talking about feelings and
15 everybody has their own feelings and opinions.
16 I just want you to feel comfortable. Okay?

17 A. Okay.

18 Q. Have you ever testified before?

19 A. No.

20 Q. Have you ever been in court with Mr. Swan?

21 A. No, ma'am.

22 Q. When you filled out your questionnaire,
23 you said that you didn't really agree with the
24 death penalty because some people may have been
25 falsely accused and put to death, then it

1 turned out to be wrong.

2 A. Correct.

3 Q. That is a big concern for you?

4 A. Yes.

5 Q. You understand that nobody, nobody with
6 the prosecution, nobody in this room, I don't
7 think would want an innocent person put to
8 death.

9 A. Correct.

10 Q. Do you have issues with the death penalty
11 beyond those? In other words, if there was no
12 question that someone were guilty, it was on
13 videotape, it was confessed or whatever, do you
14 still have issues with the death penalty being
15 an option?

16 A. I do.

17 Q. Can you tell me a little more about that?

18 A. For some reason -- I mean, some people may
19 have had experience and someone else may come
20 to jail to tell them about their experience,
21 what they went through, and it may better that
22 person.

23 Q. So it is a matter of hope?

24 A. Yes, and my religious belief. I just
25 personally don't agree with it.

1 Q. You said your religious belief? You go to
2 Full Word Ministries?
3 A. Full Word, yeah.
4 Q. Where is that?
5 A. Gordon Street.
6 Q. Is that downtown?
7 A. No, in North Charleston.
8 Q. In North Charleston?
9 A. (Affirmative nod).
10 Q. And part of your feelings about this is
11 based on the church?
12 A. (Affirmative nod), that's part of it.
13 But, as I said, there could be hope for someone
14 else.
15 Q. And you could never give up hope?
16 A. No.
17 Q. I get that. So even if the judge
18 instructed you -- well, let me ask you this
19 first of all, say the death penalty is not on
20 the table.
21 A. Okay.
22 Q. The jury is not going to be deliberating
23 the sentence, only guilt or innocence. You
24 wouldn't have a problem sitting on that kind of
25 jury, where you'd just decide whether someone

1 is guilty or not guilty?

2 A. No, ma'am.

3 Q. Then it would be up to the judge?

4 A. Yeah.

5 Q. In this kind of case, where there are two
6 phases, if you were on the jury or on a death
7 penalty jury, the Judge would instruct you that
8 you would have to put aside the fact that you
9 had convicted a person; that if you believed
10 that they were guilty beyond a reasonable
11 doubt, then hold the State to its burden to
12 prove what makes it an aggravated murder, -- we
13 have to prove to you again, beyond a reasonable
14 doubt, elements of aggravation, that make a
15 murder even worse. Do you understand that
16 concept?

17 A. Yes.

18 If the judge asked you to do that for us, to
19 set apart your feelings for the death penalty,
20 could you do that?

21 A. No.

22 Q. You couldn't set that aside?

23 A. No, ma'am.

24 Q. Can you think of any situation where if
25 life without parole were on the table and there

1 was hope that you could choose the death

2 penalty over life without parole?

3 A. No.

4 Q. And you couldn't set aside your views,

5 your beliefs even if the judge asked you to?

6 A. No.

7 Q. Or instructed you to?

8 A. No, ma'am.

9 SOLICITOR WILSON: Thank you. That's

10 all that I have.

11 THE COURT: Mr. Bloom?

12 VOIR DIRE EXAMINATION

13 BY MR. BLOOM:

14 Q. Mr. Simmons, I believe that you said that

15 your belief that you told us about today is one

16 that you hold as a matter of your religious

17 faith?

18 A. Yes, sir.

19 MR. BLOOM: Thank you very much,

20 sir.

21 THE COURT: All right. Thank you

22 very much. If you would step out, Mr. Simmons.

23 We will be with you momentarily.

24 (JUROR NUMBER 392 EXITS COURTROOM)

25 THE COURT: What is the State's

1 position?

2 SOLICITOR WILSON: He is not
3 qualified, Your Honor.

4 THE COURT: Mr. Bloom?

5 MR. BLOOM: Judge, just as we
6 previously objected on other jurors, we would
7 object to the disqualification of this juror on
8 the grounds of the First Amendment, Eighth and
9 Fourteenth Amendments of the United States
10 Constitution.

11 THE COURT: Thank you, sir. It is
12 protected. I would note, however, that he said
13 that there were reasons other than religious
14 reasons that led him to that conclusion.
15 Certainly the record is there. I think the
16 juror was very candid, for a multitude of
17 reasons he simply isn't going to consider the
18 death sentence and I respect him for that.
19 Ask him to come in, please.

20 (JUROR NUMBER 392 ENTERS COURTROOM)

21 THE COURT: Mr. Simmons, I am going
22 to excuse you from any further participation in
23 this dispute and tell you that now you've
24 completed your services for the jury and you've
25 earned your exemption for three years. Tell

1 Mr. Swan that you are not going to lose that,
2 but also tell him that Judge Dennis said he's a
3 very lucky man to have somebody like you.

4 JUROR NUMBER 392: All right.

5 THE COURT: He needs to let you work
6 with him because somebody with a voice like
7 yours is going to go far in this business.
8 Take care of yourself.

9 JUROR NUMBER 392: Thank you.

10 THE COURT: Let's be at-ease for
11 about ten minutes.

12 (BRIEF RECESS)

13 (DEFENDANT PRESENT)

14 THE COURT: Let the record reflect
15 that Mr. Dickerson is present. Is the State
16 ready to continue?

17 SOLICITOR WILSON: Yes, sir.

18 THE COURT: Defense is ready?

19 MR. BLOOM: Defense is ready, Your
20 Honor.

21 THE COURT: Let's bring in -- the
22 first one in Panel Number Eight is Juror Number
23 381.

24 (JUROR NUMBER 381 ENTERS COURTROOM)

25 THE COURT: Good afternoon, ma'am.

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1 JUROR NUMBER 381: Good afternoon.

2 THE COURT: If you will sit and pull
3 yourself up so that you can speak into that mic
4 comfortably.

5 JUROR NUMBER 381: Okay, (complies).

6 THE COURT: How are you?

7 JUROR NUMBER 381: I'm fine.

8 THE COURT: We are going to continue
9 the process that we started on Friday where we
10 were asking you some questions, talking about
11 this case. Of course, none of these questions
12 have any intent or design to invade your
13 privacy or force you to change any beliefs or
14 philosophies that you have. They are really
15 designed to help you make a determination, help
16 us make the determination as to whether you can
17 be a fair and impartial judge in this case.
18 Okay?

19 JUROR NUMBER 381: Okay.

20 THE COURT: We just simply ask -- I
21 am going to have some questions, the attorneys
22 may have some questions -- that you respond
23 truthfully and candidly to the questions and
24 that you give complete answers. We're
25 confident that you will do that. I would

1 remind you in that regard that you are still
2 under oath in this matter. Okay?

3 JUROR NUMBER 381: Yes, sir.

4 DEBORAH METERAUD, being duly sworn to
5 tell the truth, the whole truth and nothing but
6 the truth, testified, as follows:

7 VOIR DIRE EXAMINATION

8 BY THE COURT:

9 Q. Would you please state your full name for
10 the record?

11 A. Deborah Jean Meteraud.

12 Q. Ms. Meteraud, since we were together on
13 Friday, have you talked with anyone, permitted
14 anyone to talk with you or talk about this case
15 in your presence?

16 A. The people that I work with are aware that
17 I'm on jury selection. One of thee brought to
18 my attention that there was complication about
19 selection the jury and I said, 'I can't talk
20 about this.' So I don't. That's all ---

21 Q. That was the extent of it?

22 A. (Affirmative nod).

23 Q. Well, I understand that and I thank you.
24 You followed the court's instructions and did
25 exactly what you should do. I don't think

1 people intentionally do anything.

2 Several years ago my wife happened to be,
3 believe it or not, on a jury that I tried. It
4 was the most awkward situation in the world.
5 We were right before finishing it and I made a
6 comment about how somebody acted in the
7 courtroom. You know what her response was?
8 "You told us not to talk about this case."

9 I said, "Yes, ma'am. I'm sorry."

10 So you did exactly what you should do, no
11 problems. Thank you very much. And I know
12 they don't mean anything, I think that's just
13 the nature of everything that goes on.

14 That didn't influence you in any way, did
15 it?

16 A. No.

17 Q. Now, I named a number of persons on Friday
18 and told you -- asked you whether or not you
19 had any relationship with any of these persons.
20 I failed to mention two names that I need to
21 ask you about. Are you related by blood or
22 marriage, have any business dealings with or
23 socially or casually acquainted with -- have
24 any dealings with Jeff Osborne or Matt Casey?

25 A. No, sir.

1 Q. You were given a sheet when you came in
2 that sets forth three types of jurors, have you
3 had a opportunity to review that sheet?

4 A. I have.

5 Q. Which type most accurately describes you?

6 A. Type three.

7 Q. That is the juror that is obviously in the
8 limited situation, as we mentioned on Friday,
9 where a jury has the very -- the very limited
10 times when a jury is actually involved in
11 sentencing someone for murder. Do you
12 understand that?

13 A. Yes.

14 Q. That would be one of those situations
15 described in that sheet. As I understand it,
16 as a type three juror having been through the
17 trial, that is that you would have already
18 found the person who is accused of the offense
19 of murder guilty beyond a reasonable doubt --
20 do you understand that?

21 A. Yes, sir, I do.

22 Q. You would be just before entering that
23 second phase where you would -- that I
24 mentioned to you that could happen if there was
25 a verdict of murder.

1 Just before starting that, it is my
2 understanding that as a type three juror, while
3 you would have found him guilty of murder you
4 still would not have an opinion as to what the
5 appropriate sentence would be; is that correct?

6 A. I would need to evaluate what I've heard
7 and look within my self to see what the
8 sentence, what sentence I would ---

9 Q. So you wouldn't have decided anything at
10 that point?

11 A. No.

12 Q. You would still have an open mind
13 concerning the sentence?

14 A. Yes.

15 Q. And that is important because, as I
16 stated, most of the time the jury has -- once
17 they return a verdict of guilty as to murder,
18 that would end their involvement. They don't
19 participate in the sentencing. The trial judge
20 would then impose the sentence and unless it's
21 some unusual circumstances, and generally that
22 is not the case. The maximum sentence the
23 trial judge could impose would be a sentence of
24 life imprisonment without the possibility of
25 parole. There are other sentences that would

1 be less than that but the judge could never
2 impose a death sentence. Do you understand
3 that?

4 A. Okay.

5 Q. Okay.

6 A. I wasn't aware that was the case.

7 Q. That would be the case normally. But
8 there are circumstances where we have where our
9 law permits -- and that sheet that you are
10 looking at, types one, two and three, are
11 involved in making that determination as to
12 whether or not a death sentence is warranted in
13 that particular case. It's very important that
14 you keep an open mind for a lot of reasons.
15 Number one, that is the commitment that a jury
16 has to make when they start a sentencing
17 proceeding, is that they haven't predetermined
18 anything. Do you agree with that?

19 A. Yes, sir.

20 Q. That would be true whether it was the
21 first phase or the second phase. Okay?
22 Doesn't matter.

23 In the second phase the other reason it is
24 very important is that the jury, notwithstand-
25 ing that they've just found a person guilty of

1 murder. Now, you understand that "murder"
2 means that that person, that you would have
3 found as being a member of that jury panel that
4 the person the State accused was the person
5 that committed the crime, number one.

6 A. I understand.

7 Q. Number two, that that crime, the State had
8 convinced you beyond a reasonable doubt that
9 that crime was murder. That means that that
10 person intentionally killed someone with
11 malice, that there wasn't any question about
12 it, that there wasn't any reason for doing it
13 other than that person was just evil spirited
14 and intended to take someone's life, for no
15 reason, and they did it. That was a murder
16 with malice, no question about it, beyond a
17 reasonable doubt if you'd decided that. Okay?

18 A. Okay.

19 Q. The jury still is not entitled to consider
20 -- even consider -- a death sentence unless in
21 the second phase the State proves beyond a
22 reasonable doubt the existence of at least one
23 aggravating circumstance. Because that's what
24 is necessary to elevate the normal murder
25 situation to where a death sentence may be

1 considered. That is what the law requires. Do
2 you understand that?

3 A. All right.

4 Q. And the jury makes that determination
5 based on the evidence, so obviously you would
6 have to keep an open mind. Obviously, as you
7 stated, you would need to hear all that
8 evidence before making that decision and that
9 would be important.

10 A. Yes.

11 Q. And you'd need to be instructed on the law
12 before doing that, as well, okay?

13 A. Yes.

14 Q. If the jury, in their deliberations after
15 hearing all the evidence and receiving an
16 instruction, found that the state had met it's
17 burden of proof and established -- at least one
18 aggravating circumstance, and there are -- in
19 that particular case the judge would have given
20 those circumstances that may be applicable to
21 that factual situation.

22 I'll give you an example. Aggravating
23 circumstances can be the killing of a police
24 officer, the killing of a child, those are some
25 that the statute has identified as being an

1 aggravating circumstance, which then would
2 warrant the jury considering, if they found
3 that beyond a reasonable doubt, considering a
4 death sentence. Okay?

5 A. Okay.

6 Q. But the jury would have had to have
7 concluded that was present because if they
8 don't find that -- in other words, if the jury,
9 after analyzing the evidence said, 'No, I am
10 not convinced beyond a reasonable doubt that
11 there is an aggravating circumstance here, then
12 the instruction would be that you have to
13 return a verdict of life imprisonment without
14 the possibility of parole. Do you understand
15 that?

16 A. Yes, sir.

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

19 A. No.

20 Q. But the instruction would go on to say
21 that if you did find the aggravating
22 circumstance, then and only then may the jury
23 consider imposing a death sentence. But it
24 doesn't say that you have to. In other words,
25 it just means now that the jury has to make a

1 choice considering all the facts and
2 circumstance, including the crime, the nature
3 of the crime and other factors that you would
4 have heard during that proceeding, you would
5 have to weigh it all and determine what you
6 believe to be the most appropriate sentence.

7 Do you understand that?

8 A. Yes, sir.

9 Q. And as I understand, from your being a
10 type three, there are circumstances, and I am
11 not asking you what those circumstances are,
12 but in your mind there are circumstances that
13 if those were present, considering all the
14 facts and circumstances, and you found an
15 aggravating circumstance as the State is
16 required to prove and you'd considered all the
17 evidence, you could impose a death sentence?

18 A. Yes, sir.

19 Q. Likewise, notwithstanding that you may
20 have found aggravating circumstances, you could
21 consider it all and make a decision that 'while
22 I could have imposed a death sentence, in this
23 case I don't think it is warranted and I would
24 choose to impose life imprisonment without the
25 possibility of parole'?

1 A. Yes.

2 Q. Because that would be your option.

3 Because as I stated, the court would never tell
4 you that you must choose one over the other;
5 other than as stated, if you don't find an
6 aggravating circumstance, then you can't even
7 consider death. Other than that, if you do,
8 you have to make the choice.

9 And there are other reasons, because in
10 addition to those aggravating circumstances and
11 other evidence that you may hear as to the
12 appropriateness of the sentence, the court
13 would further instruct you that you are also to
14 consider any mitigating circumstances. There
15 may be statutory mitigating circumstances, that
16 is those provided by law and nonstatutory
17 mitigating circumstances; which, if you find as
18 a member of the jury are part of the record, I
19 would instruct you that before you can impose a
20 sentence that you have to give meaningful
21 consideration to those mitigating
22 circumstances.

23 A. Could you explain that a little?

24 Q. Sure. That you would not -- in other
25 words, meaningful consideration means that 'I

1 am going to consider', as you stated, 'all the
2 evidence and if that evidence considers
3 mitigating circumstances...' -- and those
4 statutory ones are such as the raising of a
5 child, what was going on in their childhood,
6 maybe some issues there, maybe some mental
7 health issues, addictions are another area
8 where there may be evidence concerning that,
9 some explanation that would bring mitigating
10 meaning that 'yes, it's a bad crime with the
11 aggravating circumstances but this tends to
12 mitigate that crime.'

13 A. I understand.

14 Q. Okay. And what meaningful consideration
15 means is that you wouldn't predetermine a
16 sentence until you'd given fair consideration
17 to those factors, as well. Would you be able
18 to follow that instruction?

19 A. Yes, sir.

20 Q. I would also instruct you that the
21 evidence may have no mitigating circumstances,
22 and I would tell you of course that in either
23 phase, as I mentioned on Friday, persons
24 accused of criminal offenses don't have to
25 prove anything, whether it is the first or

1 second phase, and you can't hold that against
2 them. For instance, they don't have to offer
3 any evidence. If they chose not to present any
4 evidence, you can't hold that against them. I
5 assume -- would you have any problem following
6 that instruction?

7 A. No, sir.

8 Q. So you would never look to the person
9 accused of this crime -- again, not only
10 accused but that you've convicted this person
11 now.

12 A. (Affirmative nod).

13 Q. You wouldn't expect that person to or hold
14 it against them if they didn't present any
15 evidence in the second phase?

16 A. No, sir.

17 Q. And that is important because there is
18 another factor that would be a part of the
19 charge. That is, that you have the right as a
20 jury that when -- and there may be no
21 mitigating circumstances or there may be some
22 or there just may be none, you have the right
23 to sentence (sic) a life imprisonment instead
24 of a death sentence for no reason at all. You
25 may just choose to do that if you're part of

1 the jury. Do you understand that?

2 That is what the charge would say. Would
3 you be able to follow that instruction, as
4 well, if you felt so inclined?

5 A. Yes, sir.

6 Q. Again, not suggesting how you are to
7 determine but these are the options available
8 to you as a juror. A I understand then, given
9 all of those instructions, you would be able to
10 follow that instruction, consider all the
11 evidence, discuss the matter with your fellow
12 jurors, take that law and apply it fairly to
13 those facts that you determine, and fashion a
14 sentence which would be fair. Is that correct?

15 A. I believe that's correct, yes.

16 Q. And given those options, if you were at
17 the point whether you could consider either,
18 there are circumstances where you could vote
19 for a death sentence and sign the necessary
20 paperwork to effect that; is that correct?

21 A. That's correct.

22 Q. Likewise, there are times when you can
23 vote for and sign whatever is necessary, should
24 there be anything, to carry out a life
25 imprisonment without the possibility of parole.

1 A. That's right.

2 Q. And you would have an open mind at all
3 times until the court instructed you to begin
4 your deliberations, as a juror?

5 A. Yes, sir. I take this very seriously.

6 Q. I'm sure that you do. I appreciate that
7 very much.

8 A. (Affirmative nod).

9 Q. Let's talk for just a moment then about
10 this case and the possibility of your being a
11 juror in this case. As you know, because none
12 of those things have happened here -- all we
13 have, as I told you, Mr. Dickerson has been
14 accused of certain criminal offenses. And as I
15 mentioned to you, it's the law of this state
16 and this country that he is presumed to be
17 innocent and I believe that you said that you
18 have no problem with that principle of law; is
19 that correct?

20 A. (Affirmative nod). No.

21 Q. That is an active presumption. That means
22 that you have to -- we all have to -- see him
23 as innocent of these charges. Today as he sits
24 here, do you think that he is innocent of these
25 charges?

1 A. I have no reason to believe otherwise.

2 Q. Precisely, and what you've promised is
3 that you will consider him to be innocent until
4 one of two things happen. Either he admits
5 that he is guilty of it or the State proves him
6 guilty beyond a reasonable doubt. Only then
7 would you have any right to say that the
8 presumption of innocence 'is now taken away.'
9 Until that happens, you have to actively
10 presume that he is innocent. Any problem with
11 that?

12 A. No.

13 Q. Okay. Now, you understand that if we had
14 a trial that there is a possibility of a second
15 phase though we don't know that. Whatever it
16 will be, your function in either or both phases
17 -- the first phase, obviously will take place
18 where these charges are going to be tried and
19 the State is going to have to present the
20 evidence to prove its case; because, as you
21 know, Mr. Dickerson doesn't have anything to
22 prove whatsoever. He doesn't have to prove his
23 innocence, you understand that?

24 A. Yes, sir.

25 Q. In fact, he doesn't have to put up any

1 evidence or testify and I would instruct the
2 jury that they can't use that against him.

3 Would you have any problem with that?

4 A. I'm sorry, I didn't hear that first part.

5 Q. He doesn't even have to present any
6 evidence nor does he have to testify.

7 A. Right.

8 Q. And the jury would be instructed that they
9 can't use that against him. Any problem
10 following that instruction?

11 A. No.

12 Q. And then you would be expected at the
13 appropriate time to consider the evidence and
14 decide what you believe to be the truth and you
15 believe that you could apply your common sense
16 fairly and impartially in doing that?

17 A. Yes, sir.

18 Q. And then you would be expected to take the
19 law as I gave it to you and apply that law
20 fairly and impartially to those facts as you
21 determine them?

22 A. Yes, sir.

23 Q. So that your decision is fair and you
24 believe that you could accomplish that, as
25 well?

1 A. Yes, sir.

2 Q. One of the parts that jurors sometimes
3 say, 'How can that be?' is, as one juror said
4 today, 'I don't know.' You may hear some law
5 that either you didn't think was the law, the
6 way that it was stated, or you don't agree with
7 it, that it is inconsistent with your
8 philosophy. I'm not suggesting that you will
9 but I am just saying that you could.

10 One of the important parts about being a
11 juror is that you will make a commitment to
12 decide this case based on the evidence and the
13 law and in order to do that you have to be
14 willing to make the commitment that you will
15 set aside your personal feelings and take the
16 law notwithstanding those feelings. Would you
17 be able to do that?

18 A. Yes, sir.

19 THE COURT: Please answer any
20 questions that the attorneys may have. Thank
21 you. Solicitor?

22 SOLICITOR WILSON: Thank you, Your
23 Honor.

24 VOIR DIRE EXAMINATION

25 BY SOLICITOR WILSON:

1 Q. Ms. Meteraud, I'm Scarlet Wilson. I'm the
2 Solicitor here. This is Bruce Durant, this is
3 Rutledge Durant. The three of us together are
4 going to be presenting the evidence in this
5 case once we get started.

6 Before that, I want to ask you some
7 followup questions based on your questionnaire
8 that we were given and based on the exchange
9 that you and the Judge had. Okay?

10 A. Okay.

11 Q. When you filled out your questionnaire,
12 you stated on the question about the death
13 penalty that you were uncertain. Can you tell
14 me what you meant by that?

15 A. Uncertain in that I can't say that across
16 the board that I believe in the death penalty
17 or that I don't believe in the death penalty.
18 I'd have to know -- I think that there are
19 certain situations where -- it's something that
20 I would have to consider. I've been on both
21 sides of the discussion and I've landed at this
22 point in my life where I am -- until I know all
23 the facts, I can't determine.

24 Q. Tell me the context of the discussions
25 that you've had in the past.

1 A. About the death penalty?

2 Q. Yes.

3 A. Just with, you know, different people who
4 are adamant that there should be no death
5 penalty or that it's not the right thing to do,
6 and then discussion with people that are if the
7 crime is just absolutely terrible, such as
8 serial killers or premeditated murders, hired
9 killer, -- you know, how can you have the same
10 punishment all the different murderers.

11 Q. You raise a good point when you say all
12 the different murderers. I want to go over
13 that a little bit with you.

14 South Carolina is not like some states, in
15 that we don't have Murder One, Murder Two, if
16 there is a Murder Three. We have murder, and
17 then we have other crimes that are called
18 murder.

19 Basically if someone is convicted of
20 murder, a jury has found that they acted with
21 malice, that it was malicious, that they acted
22 with intent, basically that they had an evil
23 heart, they set out to do something, they did
24 it, and the State got the right person, they've
25 been convicted.

1 Other situations where there has been a
2 death but which is not murder but could be some
3 sort of manslaughter; which in other states
4 could be a degree of murder. It could be an
5 accident, where it is not charged at all, or it
6 could be self-defense.

7 So in the context that we're talking about
8 the death penalty and your decision making
9 process, we're talking about cases where --
10 premeditated meaning malice aforethought, which
11 is what is required to convict someone of
12 murder here. We're talking about those
13 situations: evil, mean, murder.

14 What the judge would tell you, or anyone
15 sitting on a death penalty jury in South
16 Carolina, is that once that conviction is found
17 that a jury can't just stop. They can't say,
18 'I've heard enough.' They've promised to follow
19 instructions and to make us, the three of us,
20 prove the aggravators. He gave you an example
21 and there are many more but he would give you
22 instructions in that phase and make you or ask
23 you, instruct you, to hold us to our burden of
24 proof; which is, again, beyond a reasonable
25 doubt. You could do that?

1 A. Yes.

2 Q. And even if you found that malicious
3 murder, following the judge's instructions, you
4 could wait until you made up your mind, until
5 that was proven, the aggravators?

6 A. Yes.

7 Q. Likewise, the judge would tell you that if
8 you were on a jury that you would have to
9 really give meaningful consideration -- not lip
10 service but meaningful consideration to
11 anything in mitigation, and you'all talked
12 about that. Things that make the crime that
13 maybe wasn't introduced in the guilt phase or
14 you might learn something about the defendant
15 that made you understand a little more why a
16 defendant might do something like kill. Could
17 you hold off on your opinions until you heard
18 that information and give that meaningful
19 consideration? Really take it into account?

20 A. As I -- is that the first phase?

21 Q. That's the second phase.

22 A. So there is more involved, and discussion,
23 in the second phase?

24 Q. Right. The first phase, a jury decided
25 guilt or innocence. That's it.

1 A. Okay.

2 Q. Now, I think the reason you might have
3 thought there was more than one part to the
4 first phase is that guilt or innocence, when
5 you're deciding guilt, you're looking at
6 whether it was malicious, whether or not it was
7 intentional, all those things. Those are the
8 elements of murder.

9 A. (Affirmative nod).

10 Q. That is decided in the first phase.

11 A. Okay.

12 Q. Now, moving to the second phase, what
13 we're looking at is aggravating circumstances
14 that we have to prove and then if the defendant
15 chooses, they don't have to, any of those
16 mitigators, things that you've learned about
17 the defendant, things that you've learned that
18 you didn't know about the crime, for whatever
19 reason it didn't come in in the first part.
20 Are you with me?

21 A. Yeah, I get it now.

22 Q. Okay.

23 A. I wasn't sure how it was broken out.

24 Q. Well, it's kind of a foreign process for
25 many of us.

1 A. (Affirmative nod).

2 Q. So you could do that?

3 A. Yes.

4 Q. Even in a malicious murder, you could wait
5 until you heard it all?

6 A. Yeah.

7 Q. Okay. And there -- after that, you are
8 not going to get any more -- after that, if you
9 were convinced that the death penalty were the
10 appropriate sentence, you would have to do more
11 than just vote it, you would have to sign your
12 name to a verdict, to a death warrant. Could
13 you do that?

14 A. Yes.

15 Q. Is there anything -- I think you noted in
16 your questionnaire that you go to the Circular
17 Church and have some involvement there. Is
18 there anything about that that would affect
19 your service on a jury?

20 A. No..

21 Q. And you also mentioned on your question-
22 naire, is that a "listening coach"?

23 A. Yes.

24 Q. What is that?

25 A. A process that I went through for several

1 years that teaches you to listen to the key in
2 discussions.

3 Q. That kind of brings me to the deliberation
4 process. If you were on the jury and you were
5 convinced, as to either the verdict or the
6 punishment, what you thought was appropriate,
7 would you still be able to listen and have
8 dialogue with the other jurors who might feel
9 differently than you?

10 A. Yes, I can listen to them.

11 Q. Could you have meaningful dialogue back
12 and forth, an exchange of ideas and that sort
13 of thing?

14 A. Yes.

15 Q. And if someone maybe -- if you thought
16 maybe someone on the jury didn't understand or
17 hear all of the testimony or maybe didn't
18 understand all of the law, could you use your
19 skills in trying to make them see your point of
20 view?

21 A. I believe I could do that. I do that all
22 the time.

23 Q. But if someone in the end, if you were dug
24 into your position and they were -- if there
25 were eleven just who felt another way, could

1 you hold firm in your position?

2 A. Yes

3 Q. And, likewise, if the situation were
4 reversed and there were eleven of you that felt
5 one way and one juror who didn't, you could
6 respect that one's decision if it was clear
7 that there was no more dialogue to be had?

8 A. Yes.

9 Q. You could do that?

10 A. (Affirmative nod).

11 SOLICITOR WILSON: Thank you. I
12 appreciate your patience.

13 JUROR NUMBER 381: Thank you.

14 THE COURT: Mr. Bloom?

15 MR. BLOOM: Very briefly.

16 THE COURT: Sure.

17 VOIR DIRE EXAMINATION

18 BY MR. BLOOM:

19 Q. Ms. Meteraud, I'm not -- my name is Jeff
20 Bloom. How are you doing this afternoon?

21 A. Fine. And you?

22 Q. My name is Jeff Bloom and along with
23 Andrew Carroll, we represent William Dickerson.
24 I just have a few followup questions from what
25 Judge Dennis asked you. I am not going to

1 retread the same ground the Judge and the
2 Solicitor asked you.

3 It appears to be that you now -- and this
4 is a foreign process to you. You've never done
5 this before, is that right?

6 A. That's correct.

7 Q. And it appears to me, and I just want to
8 be clear, that you now know that there's two
9 phases in such a case. Right?

10 A. Correct.

11 Q. We are not asking you to submit how you'd
12 vote, for life imprisonment without the
13 possibility of parole or for death in this
14 instance. You understand that, right?

15 A. Yes.

16 Q. And it seems clear to me but I've just got
17 to kind of ask you, you understand when
18 deciding life without parole or other penalties
19 you get to hear about mitigating circumstances,
20 which is stuff that has nothing to do with the
21 crime? It is stuff that has to do with the
22 defendant's background, how they were raised,
23 childhood, drug addiction issues. You could
24 listen to all that type of evidence?

25 A. Yes, sir. I'm glad that I got it cleared

1 up because I didn't know that -- I thought all
2 that would come in during the first phase.

3 Q. Right, I heard you say that. But that's
4 clear to you now?

5 A. Yes. Definitely.

6 Q. That's what I wanted to know.

7 A. Yes, sir.

8 Q. And you would be interested in hearing
9 that kind of information about a defendant?

10 A. Absolutely.

11 Q. All right. In fact, the judge instructed
12 you that the death penalty is never required in
13 any phase.. You can accept that instruction?

14 A. Yes, sir.

15 Q. The law never requires it or orders it.
16 Okay?

17 A. I understand.

18 Q. And in fact, as I think Judge Dennis told
19 you, you can vote for life without parole for
20 any reason, no reason, as a simple act of
21 mercy. You could follow that instruction?

22 A. Yes, sir.

23 Q. And I am not going to be asking you the
24 same questions that the Solicitor did, but at
25 the end there she was talking about a situation

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1 where there might be some jurors voting one way
2 and you might vote another. The law calls that
3 -- when you get ready to make that choice for
4 whatever penalty, including the life without
5 parole penalty, a reasoned, individualized
6 moral judgment. You can accept that and make
7 that moral judgment for yourself?

8 A. Yes, sir.

9 Q. You can respect the other jurors choice if
10 it is different from yours?

11 A. Yes, sir.

12 Q. You can reach that fairly?

13 A. Yes, sir.

14 MR. BLOOM: Thank you.

15 THE COURT: Solicitor, anything
16 further?

17 SOLICITOR WILSON: No, sir.

18 THE COURT: Thank you very much, Ms.
19 Meteraud. We will be with you in just a
20 moment.

21 (JUROR NUMBER 381 EXITS COURTROOM)

22 THE COURT: I find that she is
23 qualified. Any objection from the State?

24 SOLICITOR WILSON: No, sir.

25 THE COURT: Any objection from the

1 defense?

2 MR. BLOOM: No, sir.

3 THE COURT: Ask her to step in.

4 (JUROR NUMBER 381 ENTERS COURTROOM)

5 THE COURT: Ms. Meteraud, thank you
6 very much. Thank you very much, and I
7 appreciate your patience. You've been found to
8 be qualified to be a member of the panel from
9 which we will select our jury. That will occur
10 Thursday morning at 9:30.

11 You will need to report here at 9:30
12 -- when I say "here", you will be out in the
13 audience. We will then go through the process
14 of selecting the jury. After we select the
15 jury, the intention is to start the trial of
16 the case, so be prepared on Thursday, if need
17 be, to stay and start your first day of work on
18 this case.

19 Until then and until you have been
20 dismissed from this case, please remember that
21 you still are not at liberty to discuss this
22 case with anyone or permit anyone to talk with
23 you about it. Also, please continue not to
24 watch any news programs about it or read any
25 news accounts. Have a nice tomorrow and we'll

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1 see you, hopefully, Thursday.

2 JUROR NUMBER 381: Can I ask how many
3 are on the panel.

4 THE COURT: There will be twelve on
5 the panel and the goal is to obtain four
6 alternates. Whether we can get enough to have
7 four without -- we hope, we'll see today and
8 tomorrow. That's the goal. Twelve persons who
9 will be on the jury and some number of
10 alternates. Thank you.

11 (JUROR NUMBER 381 EXITS COURTROOM)

12 THE COURT: Number 247, Ms.
13 Prioleau.

14 (JUROR NUMBER 247 ENTERS COURTROOM)

15 THE COURT: Ms. Prioleau, please
16 take a seat and position that chair so that you
17 can speak into that mic comfortably. Okay?

18 JUROR NUMBER 247: Yes, sir.

19 THE COURT: Friday, we started this
20 process. As you will recall, we were asking
21 you a number of questions, the group as a
22 whole. We are going to continue that process
23 now. I have some questions I need to ask you
24 and the attorneys may need to ask some
25 questions that they need to ask you.

1 Just as you noticed on Friday, there
2 are no correct answers to any of these
3 questions. They are really designed to help
4 you and to help us decide whether you can be a
5 fair and impartial juror in this case. Okay?

6 JUROR NUMBER 247: (Affirmative nod).

7 THE COURT: In that regard, we are
8 not trying to change your mind or to challenge
9 any philosophies that you may have or invade
10 your privacy. We just need you to be candid
11 and truthful in responding to the questions and
12 completely answer them. Will you do that?

13 JUROR NUMBER 247: Yes, sir.

14 THE COURT: Thank you. I would
15 remind you in that regard that you are still
16 under oath in this matter. Okay?

17 JUROR NUMBER 247: Yes, sir.

18 ELAINE PRIOLEAU, 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. If you would, state your full name for the
24 record.

25 A. Elaine Prioleau.

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1 Q. Since we were together on Friday, Ms.
2 Prioleau, have you talked with anyone or
3 permitted anyone to talk with you about this
4 case?

5 A. No, sir.

6 Q. Have you read any news articles or watched
7 any news programs about the case?

8 A. No -- (coughing).

9 Q. If you need some water or you just need to
10 pause, you just tell us and we will do that.
11 Okay?

12 A. Okay. It's just me moving from one room
13 to another.

14 Q. I understand. I think it's something in
15 the air here. Last night riding home, my eyes
16 felt like somebody had poured sand in there.
17 I was coughing and sputtering last night. I
18 felt better this morning, so I am blaming it on
19 this building. That's my position. But if you
20 need to stop, just let me know. Okay?

21 A. All right.

22 Q. Thank you. As I was saying, on Friday I
23 failed to mention two names that I need to ask
24 you about. Are you related by blood or
25 marriage, have any business dealings with or

1 socially or casually acquainted with or have
2 any dealings with Jeff Osborne or Matt Casey?

3 A. No, sir.

4 Q. You were given a sheet when you came in
5 that sets forth three types of jurors, have you
6 had a opportunity to review that sheet?

7 A. Three.

8 Q. Number three?

9 A. (Affirmative nod).

10 Q. That is a juror who -- as you will
11 remember Friday, we were talking about this
12 case. Of course right now -- in this case
13 there could be two phases. You understand
14 that?

15 A. (Affirmative nod).

16 Q. The first phase is when the State would be
17 required to prove the charges that they made
18 and that's all that you hear, that's all the
19 evidence you would hear in that first phase.

20 A. Okay.

21 Q. It just deals with the charge. Do you
22 understand that?

23 A. Um-humm.

24 Q. And then the jury, depending on the jury's
25 verdict, we may go into the second phase. The

1 sheet that you have, not this case but the case
2 in which that jury was empaneled to hear a
3 murder charge and the jury is going to impose a
4 sentence and they've heard the evidence only as
5 to the charge of murder and other things
6 surrounding the murder and now they're going to
7 make a determination -- now they are going to
8 move into the second phase. Okay?

9 A. Okay.

10 Q. They have already gone halfway through,
11 they've heard all the evidence about the charge
12 and basically their decision has been 'yeah,
13 the State has convinced me beyond a reasonable
14 doubt that the individual accused is guilty of
15 murder.'

16 A. Right.

17 Q. Okay?

18 A. Okay.

19 Q. So as a type three juror in that setting,
20 you will have already heard all that evidence
21 and you would have decided beyond a reasonable
22 doubt that this person committed this crime and
23 that crime was the intentional killing of
24 another person with malice.

25 A. Right.

1 Q. Not something that -- sometimes you may
2 have heard or read about something where
3 somebody was in a fight or they got angry over
4 something else and they shot somebody and they
5 died. In this state, that's called
6 manslaughter. It's not there. It's more than
7 that, because it is an intentional killing with
8 malice.

9 A. All right.

10 Q. There's no reason for it, there is no
11 defense, it was not self-defense, there was no
12 mistake, it was no accident. They wanted to
13 kill somebody, there were evil thoughts about
14 it, they went out and they carried it out.
15 That's what we are talking about. Okay?

16 A. Okay.

17 Q. In that situation, you've just convicted
18 that person, a type three juror, as I
19 understand and as I understand you to be, you
20 haven't started, you haven't heard any evidence
21 now about what the appropriate decision would
22 be -- you would have an open mind as to what
23 the sentence should be at this point. Is that
24 right?

25 A. Right.

1 Q. And you wouldn't change that until you've
2 heard all the evidence and been instructed on
3 the law, is that right?

4 A. Okay.

5 Q. And you'd have had to have all of it
6 before you would change, is that correct?

7 A. Yes, sir.

8 Q. Well, it is important to the process
9 because typically in this state, for instance,
10 it is very seldom that a jury is involved to
11 determine the sentence in murder. Most of the
12 time what happens is that the jury is -- you
13 would have been involved in the first phase,
14 heard all the evidence about the crime, found
15 the person guilty of murder and then the judge
16 imposes a sentence. The jury is not even
17 involved. Did you realize that?

18 A. No.

19 Q. Well, that's what normally happens. Okay?

20 A. (Affirmative nod).

21 Q. It is only in limited circumstances where
22 a jury could be empaneled to make that
23 determination. What the law says is that the
24 State -- the first thing of that second phase,
25 one part of that phase is that they have to

1 prove that there is a reason for this jury to
2 make that choice. They have to prove what is
3 called the existence of an aggravating
4 circumstance. At least one.

5 The judge would define that for you, what
6 they are. There are a number of them. Some of
7 them, just for your information, -- let's
8 assume in this case that it was the killing of
9 a police officer. You'd have to find beyond a
10 reasonable doubt that the person committed
11 murder and that the murder -- that they killed
12 a police officer. That would have to be
13 established beyond a reasonable doubt before
14 the jury could even consider a death sentence.

15 A. Okay.

16 Q. Because unless the aggravating
17 circumstance is there, the only sentence that
18 the jury could impose is life imprisonment
19 without the possibility of parole. Okay?

20 A. Okay.

21 Q. Would you have any problem following that
22 law?

23 A. No, sir.

24 Q. None whatsoever?

25 A. No, sir.

1 Q. Now, if the jury found the person guilty
2 and then you were -- in that case --
3 deliberating, after you've heard all the
4 evidence in the second phase and you'd already
5 received the law, if you -- after talking with
6 your jurors you concluded that 'yeah, the state
7 has convinced me of the existence of an
8 aggravating circumstance', I would have
9 instructed you that once you find that then you
10 may consider a death sentence. That doesn't
11 mean that you have to impose it, it just means
12 now that the jury has the option. Because they
13 found that aggravating circumstance, which you
14 understand makes the crime more than just your
15 normal murder, now you have the right, if you
16 chose to, to impose a death sentence. Do you
17 understand that?

18 A. Okay.

19 Q. Now, you would of course be instructed to
20 consider all of the evidence, including
21 aggravating circumstances, and there may be
22 evidence introduced in the trial or presented
23 in the record that we would call mitigating
24 circumstances.

25 Mitigating circumstances, some are

1 statutory -- that is, our laws have been
2 written to provide these types of mitigation.
3 The jury has to consider to determine whether
4 they're present.

5 Now, mitigating circumstances are circum-
6 stances that while you may have found an
7 aggravating circumstance, that raises the level
8 of the murder, this kind of lessens the effect
9 of the murder or gives you some explanation or
10 reason that this person may have done what they
11 did, such as the person had an addiction, they
12 were suffering from some addiction to some
13 drug. They had a very difficult childhood, may
14 have been abused or that type of thing. Maybe
15 they had some physical or mental disorder,
16 emotional or physical disorder that had some
17 influence or that affected them, that didn't
18 rise to the level of insanity but it was
19 something that a jury would be instructed, if
20 it was present, to consider as a mitigating
21 circumstance. Do you understand that?

22 A. Yes, sir.

23 Q. Understanding what they are in general,
24 and some are statutory and some of
25 nonstatutory, the instruction would be that if

1 they are present you have -- you would have to
2 give meaningful consideration. That means that
3 you'd have to think about those, look at those
4 and consider those before you decide what the
5 appropriate sentence is. Would you be able to
6 do that?

7 A. Yes, sir.

8 Q. And you would do that?

9 A. I would.

10 Q. Now, I would tell you that in criminal
11 prosecution, as I mentioned to you on Friday,
12 the person accused doesn't have any burden to
13 prove anything ever. Okay?

14 A. Okay.

15 Q. They don't have to prove their innocence
16 and in this phase, that you are talking about
17 with this case that -- this imaginary case
18 where you're sitting as a type three juror,
19 that person would not have any burden either.

20 A. Okay.

21 Q. I would instruct you that if they didn't
22 present any evidence that you couldn't use that
23 against them. That means, if they didn't
24 present anything for you to consider and there
25 wasn't any mitigation in the evidence, then you

1 couldn't use that against them in any fashion.

2 Would you be able to follow that instruction?

3 A. Yes.

4 Q. So you would never penalize that person
5 for not having -- not presenting any evidence
6 of mitigation or anything. Is that right?

7 A. Right.

8 Q. Well, that's important because another
9 aspect of the charge, aside from it being the
10 law, it is also important because part of the
11 instruction would say not only can you give --
12 for instance, life without parole because of
13 some mitigating circumstance, you have the
14 right to give life without parole, even though
15 you could have given the death penalty, for no
16 reason whatsoever, if you choose to. Do you
17 understand that?

18 A. No.

19 Q. Well, that would be part of the instruc-
20 tion. You would have that right on that jury.
21 Okay?

22 A. (Affirmative nod).

23 Q. The question is, would you be able to
24 follow that instruction, as well?

25 A. (Affirmative nod).

1 Q. That means, would you then consider all of
2 the options available to you, consider all the
3 evidence and make a decision what you believe
4 to be the appropriate sentence?

5 A. (Affirmative nod).

6 Q. You could do that?

7 A. Yes.

8 Q. And you wouldn't have any predetermination
9 or pre-inclination of what you would do? You
10 would have to go through all the process, hear
11 all the evidence and talk with other jurors
12 before you would reach that decision?

13 A. Yes.

14 Q. But as a type three juror, it is my
15 understanding that after doing all of that and
16 now we're at the end, after you've considered
17 the evidence in that case, your decision could
18 be a death sentence?

19 A. Could be.

20 Q. If you believe the facts warranted it?

21 A. Right.

22 Q. After considering all the circumstances?

23 A. Yes.

24 Q. Likewise, even though you could have
25 imposed a death sentence, assuming that was the

1 case, you could still have voted for life
2 imprisonment without the possibility of parole?

3 A. Yes.

4 Q. Just depends on the facts?

5 A. (Affirmative nod), it depends on the
6 facts.

7 Q. Thank you, ma'am. Now let's focus on this
8 particular case in which you're being
9 considered as a potential juror. Do you
10 understand that the jury has the burden of
11 determining the true facts from considering the
12 evidence. You understand that?

13 A. Yes, sir.

14 Q. And you understand that you have to have
15 an open mind when we start?

16 A. Yes.

17 Q. And an open mind throughout until the
18 court tells you to begin your deliberations?

19 A. Yes.

20 Q. And you'd be able to honor that?

21 A. I would.

22 Q. And you feel that you'd be able to apply
23 your common sense, your sense of logic and
24 reasoning in analyzing the evidence; in the
25 first phase and, if necessary, in the second

1 phase. Is that correct?

2 A. That's correct.

3 Q. And you would decide what you believe to
4 be the truth and then once deciding that you're
5 willing to take the law as I gave it to you and
6 apply it fairly to those facts?

7 A. Yes.

8 Q. And your decision would be fair to both
9 sides?

10 A. Yes.

11 Q. Do you understand that I would have
12 nothing to do with the factual determinations?

13 A. I understand.

14 Q. Because that's the jury's sole side?

15 A. (Affirmative nod).

16 Q. But you don't have anything to do with the
17 law, do you understand that?

18 A. Yes, sir.

19 Q. That means that you promised to take the
20 law as I give it to you, even if you should
21 hear something which would cause you to say,
22 'hummm, that's not what I thought the law was'
23 or 'I think the law ought to be changed' or 'I
24 don't agree with that principle of law',
25 because part of the oath that you took, if you

1 had those feelings you would be promising the
2 court and you would be promising the State and
3 Mr. Dickerson that you would set those aside
4 and do what the law says regardless of how you
5 think or feel. You would do that?

6 A. Yes.

7 Q. Okay. Now, you understand again that Mr.
8 Dickerson merely is accused of these crimes and
9 he has nothing to prove or disprove. Do you
10 agree with that?

11 A. Yes.

12 Q. And you didn't have any problem with the
13 presumption of innocence -- is that correct?

14 A. That's correct.

15 Q. So as you see him today, he is innocent of
16 these charges as far as you're concerned; is
17 that right?

18 A. Yes, he is.

19 Q. I would tell you also that he doesn't have
20 to explain anything. In fact, he doesn't have
21 to put any evidence in, nor does he have to
22 testify. If he didn't, I would instruct you
23 that you couldn't use that against him. Would
24 you have any problem following that principle
25 of law?

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1 A. No.

2 THE COURT: Thank you, ma'am.

3 Please answer any questions that the attorneys
4 may have. Mr. Bloom?

5 VOIR DIRE EXAMINATION

6 BY MR. BLOOM:

7 Q. Good afternoon, Ms. Prioleau.

8 A. Hi.

9 Q. My name is Jeff Bloom and along with
10 Andrew Carroll, we represent William Dickerson.
11 I just have a few followup questions from what
12 Judge Dennis asked you. If I could start off
13 by asking, if we were just standing around
14 having a cup of coffee and something came on
15 the News about the death penalty and I turned
16 to you and we were just chatting and I asked
17 you, 'What is your opinion about the death
18 penalty?' What would your response be?

19 A. My response would be that it just depends
20 on the situation whether or not I could give
21 the death penalty.

22 Q. Okay. So you're not going to vote for it
23 in every case?

24 A. Right.

25 Q. Okay. You're going to wait, as Judge

1 Dennis asked, until you hear all the evidence
2 and all the circumstances?

3 A. Right.

4 Q. Okay. And you understood one of Judge
5 Dennis' instructions to you was that in fact
6 the law never requires a juror to vote for the
7 death penalty. I think you understood that?

8 A. Yes.

9 Q. In fact, the judge would never order a
10 jury to find a death penalty. After you hear
11 all the evidence and all the circumstances and
12 you deliberate, it's totally up to you and your
13 fellow jurors. Do you understand that?

14 A. Yes.

15 Q. Okay. There was one thing that the judge
16 asked you and I just want to make sure that I
17 understand because he asked you about one
18 instruction and this -- you've served on jury
19 duty before, right?

20 A. Yes.

21 Q. But doing like this, nothing like a murder
22 case or a possible death penalty case; right?

23 A. No.

24 Q. Or a possible life without parole case?

25 A. No.

1 Q. And Judge Dennis asked you if a jury could
2 vote for life without parole for any reason or
3 for no reason or for a simple act of mercy and
4 I think initially your response was that you
5 didn't know that was the law but now you do; is
6 that correct?

7 A. Yes.

8 Q. And you accept that?

9 A. Yes.

10 Q. So as a juror you could follow that
11 instruction but if you felt a life without
12 parole sentence was the proper sentence, you
13 could give it for any reason or for no reason
14 or as a simple act of mercy; is that right?

15 A. Yes.

16 Q. Okay. The next thing that I want to ask
17 you, ma'am, is when -- if you were a juror,
18 when the jury -- after they hear all the
19 evidence and all the circumstances, and the law
20 as Judge Dennis gives it to you and you debate
21 it with your other jurors, you listen to them
22 and debate it, discuss it back and forth, each
23 juror -- the law requires them to come to their
24 own individualized and reasoned moral judgment.
25 Can you accept that?

1 A. Yes.

2 Q. Because what the -- what one juror's
3 verdict might be might be different from
4 another juror's moral, individualized choice.
5 You can understand that?

6 A. Right.

7 Q. And you were in a situation where after
8 you'd heard everything, all the circumstances,
9 Judge Dennis' information on the law and had
10 discussed with your other jurors, listened to
11 them and they'd listened to you but you came to
12 your own individualized and reasoned moral
13 judgment, if eleven jurors were going one way
14 but you were going another way, you would make
15 that judgment that was right for you in your
16 heart of hearts, could you stand by that?

17 A. Yes, I could.

18 Q. You wouldn't give that up just to say,
19 'No, it's late. I'm hungry. I've got to go
20 home and make dinner. You wouldn't just go
21 along to get along.'

22 A. No, I make up my own mind.

23 Q. You didn't strike me as that kind of
24 person but you know that I have to ask.

25 A. Okay.

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1 Q. And, lastly, in that regard, once you had
2 made that judgment that was right for you, in
3 your heart of hearts, could you ask those other
4 jurors to respect your vote?

5 A. Yes.

6 Q. Just as you would respect theirs?

7 A. Yeah.

8 Q. Thank you, ma'am.

9 MR. BLOOM: I have nothing further.

10 THE COURT: Thank you, Mr. Bloom.
11 Solicitor?

12 VOIR DIRE EXAMINATION

13 BY SOLICITOR WILSON:

14 Q. I'm Scarlet Wilson, I'm the prosecutor
15 here. This is Bruce Durant and Rutledge Durant
16 and the three of us will be the ones trying the
17 case together, we will be the ones presenting
18 evidence when the case starts.

19 I've looked over your questionnaire and
20 listened to your answers to Mr. Bloom's
21 questions and also to the judge's questions and
22 I think you've answered all my questions. So I
23 don't have anything further. The judge is
24 probably going to let you go. Thank you.

25 THE COURT: Thank you, Solicitor.

1 Ms. Prioleau, if you would step out for just a
2 moment, we are almost to the point of you being
3 out of here very quickly.

4 (JUROR NUMBER 247 EXITS COURTROOM)

5 THE COURT: I find Ms. Prioleau to
6 be qualified. Any objections from the State?

7 SOLICITOR WILSON: No, sir.

8 THE COURT: Any objection from the
9 defense?

10 MR. BLOOM: No, sir.

11 THE COURT: Ask her to step in,
12 please.

13 (JUROR NUMBER 247 ENTERS COURTROOM)

14 THE COURT: Thank you very much and,
15 again, thank you for 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 That will occur Thursday morning at
19 9:30 in this courtroom. So you'll need to be
20 back here Thursday morning. When you come
21 back, you'll come directly to the audience
22 there. They will direct you and -- take a seat
23 and we will go through that process and we will
24 identify our jury. Be prepared to remain,
25 because if you're on the jury we intend to

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1 start the trial of this case right after we
2 select our jury. Okay?

3 JUROR NUMBER 247: 9:30?

4 THE COURT: Yes, ma'am, 9:30 on
5 Thursday. Until then and until you have been
6 dismissed from this case, please remember that
7 you still are not at liberty to discuss this
8 case with anyone or permit anyone to talk with
9 you about it. Also, please continue not to
10 watch any news programs about it or read any
11 news accounts. Have a great day and we'll see
12 you, hopefully, Thursday.

13 (JUROR NUMBER 247 EXITS COURTROOM)

14 THE COURT: Bring in 177.

15 (JUROR NUMBER 177 ENTERS COURTROOM)

16 THE COURT: Good afternoon.

17 JUROR NUMBER 177: Good afternoon.

18 THE COURT: We are going to continue
19 the process that we started on Friday. I am
20 going to have some questions, the attorneys may
21 have some. The attorneys may have some.

22 As you will recall, these questions
23 don't have any particular answer. They just
24 simply require you to -- we just ask that you
25 be truthful. There are no correct answers, nor

1 are we trying to invade your privacy or change
2 your mind about how you feel or any philosophy
3 that you have. We just want you to be candid
4 and share fully your responses. Are you
5 willing to do that?

6 JUROR NUMBER 177: Yes, Your
7 Honor.

8 THE COURT: In that regard, I would
9 remind you that you are still under oath?

10 JUROR NUMBER 177: Yes, sir.

11 PHILLIP KUEHMAN, being duly sworn to
12 tell the truth, the whole truth and nothing but
13 the truth, testified, as follows:

14 VOIR DIRE EXAMINATION

15 BY THE COURT:

16 Q. State your full name for the record?

17 A. Phillip Kuheman.

18 Q. Thank you, sir. Mr. Kuheman, since we
19 were together on Friday, have you talked with
20 anybody about this case, or permitted anyone to
21 talk with you about it?

22 A. No, sir.

23 Q. Have you read any newspaper accounts or
24 watched any TV news accounts of it?

25 A. No, sir.

1 Q. On Friday I gave you a number of persons
2 to find out whether you were related by blood
3 or marriage to any of them. I failed to
4 mention two names that I need to ask you about.
5 Are you related by blood or marriage, have any
6 business dealings with or socially or casually
7 acquainted with or have any dealings with Jeff
8 Osborne or Matt Casey?

9 A. No, sir.

10 Q. You were given a sheet when you came in
11 that sets forth three types of jurors, have you
12 had a opportunity to review that sheet?

13 A. Yes, sir.

14 Q. Which type most accurately describes you?

15 A. I'd say type one.

16 Q. Type one?

17 A. (Affirmative nod).

18 Q. And that means that if you were empaneled
19 on a jury, and this would be the setting that
20 we're talking about, that jury panel would have
21 been empaneled to determine the proper penalty
22 for a person convicted of murder.

23 You would be at the point where you would
24 have finished the only phase -- in other words,
25 the State would have proved beyond a reasonable

1 doubt that this individual committed the crime
2 murder -- that is, killing someone with malice,
3 they intended to do it, there wasn't any
4 question about it, no mistake, no reason, no
5 provocation, nothing that would make it less
6 such as manslaughter, no self-defense, a
7 murder, a malice murder.

8 Now you're about to start the second
9 phase, where you're going to hear evidence as
10 to what the most appropriate sentence would be.
11 The options could be life imprisonment without
12 the possibility of parole or the death
13 sentence, assuming certain factors were
14 established.

15 It is my understanding that given that
16 situation one of the things that I would charge
17 you is that, first of all, you couldn't even
18 consider a death sentence unless the jury found
19 beyond a reasonable doubt the existence of some
20 aggravating circumstance. Those are things
21 that occur that are -- that make the crime of
22 murder more than typical. Because typically a
23 jury is not involved in sentencing. The
24 maximum sentence which can be imposed for
25 murder, typically, is life without parole.

1 In some situations our law provides that
2 where a jury concludes beyond a reasonable
3 doubt that certain aggravating circumstances
4 exist, then the jury has the right to consider
5 a death sentence in addition to life without
6 parole. Okay?

7 A. Okay.

8 Q. If that jury were to determine that there
9 were aggravating circumstances, and an example
10 of that would the killing of a police officer,
11 or the killing of a child, those types -- those
12 are some and there are others, then the jury
13 would have that option. It is my understanding
14 as a type one, that it wouldn't matter factors
15 that you heard in the second phase, if there
16 were aggravating circumstances and you were
17 given the option of life or a death sentence,
18 you would always choose a death sentence?

19 A. Yes, sir.

20 Q. Absolutely?

21 A. (Affirmative nod).

22 Q. And you would never, ever, consider nor
23 could you impose in that situation a life
24 sentence?

25 A. No, sir.

1 Q. Even if the court instructed you to set
2 your personal feelings aside, you could never
3 do that?

4 A. (Pause) -- no, sir, (negative gesture).

5 THE COURT: Any questions from the
6 State?

7 SOLICITOR WILSON: Yes, sir, Your
8 Honor.

9 VOIR DIRE EXAMINATION

10 BY SOLICITOR WILSON:

11 Q. I'm Scarlet Wilson, I'm the Solicitor
12 here. This is Bruce Durant and Rutledge Durant
13 and together we will be prosecuting this case
14 once we get started.

15 Based on your answers to Judge Dennis and
16 the answers in your questionnaire, I have some
17 followup questions that I want to go over with
18 you first.

19 I noticed on your questionnaire that you
20 filled out when you were given a copy of that
21 you didn't fill out anything about the death
22 penalty. You didn't answer the question. Why
23 was that?

24 A. There was a bunch of personal information
25 that I didn't feel was right.

1 Q. Okay. Based on what the Judge has told
2 you here today, do you understand that the law
3 doesn't require or even consider or care what
4 your personal belief is as long as you can set
5 it aside and consider the facts of the case.
6 Do you think that there is any situation where
7 you can set aside your personal feelings and
8 follow the judge's instruction?

9 A. (Pause) -- no.

10 Q. Let's talk about that for a minute. In
11 South Carolina we don't have different degrees
12 of murder like you may have seen on TV or
13 murder in different states. Once someone has
14 been convicted of murder, they have been
15 convicted of an evil, malicious, intentional
16 killing; not self-defense, not an accident, not
17 some sort of manslaughter; a malicious, evil
18 killing. But under South Carolina law even
19 murder doesn't always qualify for the death
20 penalty. Does that make sense to you?

21 A. Yeah.

22 Q. You understand what I'm saying there?

23 A. (Affirmative nod).

24 Q. And what the judge talked about was that
25 in a death penalty case there are two phases;

1 one which is the guilt phase and if there is a
2 finding, again of evil, malicious murder, the
3 State would then seek the second phase. Would
4 you be able to hold the State to its burden of
5 proof and be able to wait, in fact, until the
6 State has proven beyond a reasonable doubt an
7 aggravating circumstance before making up your
8 mind?

9 A. (Pause) -- yes.

10 Q. Do you want to explain something about
11 that?

12 A. (Pause) -- yeah, I could -- tell me that
13 again.

14 Q. You want me to go through that again?

15 A. Yes.

16 Q. If after conviction for a malicious,
17 intentional murder, the Judge would instruct
18 you or the jury that is seated in a death
19 penalty case that they couldn't make their
20 decision yet, even though they have already
21 found the person guilty of a malicious,
22 intentional, bad, evil murder, that they would
23 have to wait and they would have to hold the
24 State to its burden in the second phase.

25 In the second phase, our burden -- three

1 of us (indicating prosecutors) would have to
2 prove beyond a reasonable doubt aggravating
3 circumstances, an aggravating circumstance. If
4 we didn't prove aggravating circumstances, that
5 jury could not even consider the death penalty.
6 Do you understand that?

7 A. I understand.

8 Q. Do you think that you could follow those
9 instructions and not go to the death penalty
10 because the State hasn't proved those
11 aggravating circumstances?

12 A. Yes.

13 Q. Even though it was a really bad, malicious
14 murder?

15 A. I couldn't.

16 Q. You couldn't?

17 A. No, I couldn't.

18 Q. That is what I was getting at. Every
19 murder in South Carolina is, by its very
20 definition, going to be malicious. If it is
21 not malicious, if there was not malice it can't
22 be murder. So are you saying that if there was
23 a conviction for murder, you'd automatically
24 have to go to the death sentence?

25 A. Yeah.

1 SOLICITOR WILSON: That's all that I
2 have, Your Honor.

3 THE COURT: Any questions, Mr.
4 Bloom?

5 MR. BLOOM: Mr. Kuheman, thank you
6 for being here. My name is Jeff Bloom, this is
7 Andrew Carroll. We represent William
8 Dickerson. I have no questions. Thank you.

9 THE COURT: Thank you. Mr. Kuheman,
10 if you will step out, we will be with you
11 momentarily.

12 (JUROR NUMBER 177 EXITS COURTROOM)

13 THE COURT: Solicitor, I appreciate
14 the attempt but this gentleman is not
15 qualified. No question.

16 BRUCE DURANT: Had to try.

17 THE COURT: I understand. I will
18 give -- no problem. Anything further,
19 Solicitor?

20 SOLICITOR WILSON: No, sir.

21 THE COURT: Any objection?

22 MR. BLOOM: No, sir, Your Honor, we
23 agree that he is not qualified.

24 THE COURT: Thank you, please ask
25 him to return.

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1 (JUROR NUMBER 177 ENTERS COURTROOM)

2 THE COURT: Thank you, Mr. Kuheman.

3 I appreciate very much your participation in
4 this process and your candor. As I mentioned
5 to you, you are entitled to your belief and
6 your philosophies, and nobody is going to
7 challenge those.

8 I am going to excuse you from any
9 further participation in this dispute. Thank
10 you for your services that you've rendered.
11 You don't have to come back anymore, nor do you
12 have to call. You have completed your service
13 and earned your exemption for the next three
14 years.

15 I hope you have a good day and a good
16 rest of the year. Thank you. Thank you for
17 your patience with us, too, sir.

18 (JUROR NUMBER 177 EXITS COURTROOM)

19 THE COURT: Ms. Mullen, Juror Number
20 221.

21 THE COURT: We may be out by 7:00.

22 (JUROR NUMBER 221 ENTERS COURTROOM)

23 THE COURT: Hi, Ms. Mullen. How are
24 you?

25 JUROR NUMBER 221: I'm good. How are

1 you?

2 THE COURT: Fine. Thank you for
3 your patience. I know it's late and I
4 apologize for keeping you so long, but the
5 process takes some time and I thank you for
6 your endurance and understanding. We won't
7 take much longer.

8 We want to continue the process that
9 we started on Friday. By that, I mean that I
10 have some questions that I need to ask of you
11 and the attorneys may have some questions.
12 Just as you noted on Friday, there really are
13 no correct answers to any of these questions.
14 All that we ask is that you be truthful and
15 candid in your responses and I am confident
16 that you will do that and that you completely
17 answer the questions. Will you do that?

18 JUROR NUMBER 221: Yes.

19 THE COURT: Please understand that
20 we're not here to challenge any belief that you
21 may have or any philosophies that you may have,
22 nor are we here to invade your privacy. This
23 whole process is to help all of us, you
24 included, to determine whether you can be a
25 fair and impartial juror. Okay?

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1 JUROR NUMBER 221: Yes, sir.

2 THE COURT: I would remind you, Ms.
3 Mullen, that you are still under oath.

4 JUROR NUMBER 221: I understand.

5 VOIR DIRE EXAMINATION

6 BY THE COURT:

7 Q. Would you state your full name for the
8 record, please?

9 A. Susan Marie Mullen.

10 Q. Okay. Ms. Mullen, since we were together
11 on Friday, have you spoken with anyone or
12 permitted anyone to talk about this case or
13 talk to you about serving on this case?

14 A. No, I have not.

15 Q. Have you watched any news programs or read
16 any news accounts of this case?

17 A. No, I have not.

18 Q. Friday we mentioned a number of names of
19 persons to ascertain whether you were related
20 to any of them. I failed to mention two names
21 that I need to ask you about. Are you related
22 by blood or marriage, have any business
23 dealings with or socially or casually
24 acquainted with or have any dealings with Jeff
25 Osborne 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. Um-humm.

6 Q. Which type most accurately describes you?

7 A. Number three.

8 Q. Okay. Number three is basically the juror
9 that in certain circumstances could impose a
10 death sentence and in certain circumstances
11 would impose a life imprisonment without the
12 possibility of parole but they don't know which
13 one it would be because they'd have to hear all
14 the facts and circumstances first; correct?

15 A. Correct.

16 Q. You filled out this questionnaire, and I
17 thank you for that, that answered a number of
18 questions. One stated that you had a brother
19 that was murdered, is that correct?

20 A. Yes.

21 Q. I need to ask you and I don't believe that
22 you came forward, or did you come forward --
23 you did come forward in response to concerning
24 any ---

25 A. I did, (affirmative nod).

1 Q. As I recall, you said that you would not
2 be unduly influenced by that; is that correct?
3 Self-defense

4 A. No. Correct.

5 Q. And that means that you could make a
6 commitment that you'd make this decision based
7 on the facts in this case; is that correct?

8 A. Correct.

9 Q. I just wanted to verify that part. And,
10 secondly, you said "I do not believe in the
11 death penalty" in answer to the question of
12 what was your opinion. "Life in prison without
13 parole is a better solution." That's fine.
14 But it is my understanding that notwithstanding
15 that opinion that it is your statement here
16 today that in certain circumstances you could
17 vote to impose a death sentence notwithstanding
18 that opinion.

19 A. In certain circumstances, yes.

20 Q. I understand that.

21 A. (Affirmative nod).

22 Q. And it would depend on those
23 circumstances?

24 A. Exactly, (affirmative nod).

25 Q. Let's talk about that situation that that

1 sheet represents because obviously now the jury
2 is going to have to consider the sentence to be
3 imposed. As you will recall, this is a case
4 where -- in which a jury is going to be
5 empaneled and it is not something that is the
6 norm in this state, because normally a jury
7 does not participate in the sentence in a
8 murder case. Do you understand that?

9 A. (No verbal response).

10 Q. In this case, this imaginary case here
11 where we're talking about you being the type
12 three juror, that jury -- we would be at this
13 point -- remember, I said that there could be a
14 first phase and could be a second phase?

15 A. (Affirmative nod).

16 Q. Well, in that particular case on that
17 sheet, you will have completed the first phase.
18 That means that you will have heard, you would
19 have been on a jury that has heard all the
20 evidence about a murder and you will have
21 concluded that the person who was charged by
22 the State -- you would have been instructed to
23 evaluate the evidence, you would have been
24 persuaded that the State had met its burden of
25 proof and established each element of the crime

1 of murder and returned a verdict of guilty of
2 murder. Do you understand that?

3 A. Yes.

4 Q. Because you had returned that verdict, now
5 you would be moving into that second phase
6 where the sentence would be determined by that
7 jury. Do you understand that?

8 A. Yes.

9 Q. What you would have said in the first
10 phase is that based on the evidence surrounding
11 the crime and only the crime, that's all that
12 you would have heard about, of what was
13 alleged, that the State would have had to have
14 proved, you would have found that the person
15 who was accused of committing this offense,
16 number one, the State had the right person, no
17 question about that, beyond a reasonable doubt,
18 and that that person had committed a -- had
19 killed someone with malice -- in other words,
20 they intended to do it, it wasn't a mistake,
21 they weren't provoked, that wasn't anything to
22 make it manslaughter or to lessen the murder
23 offense, it wasn't self-defense, wasn't an
24 accident, it was something that -- they were
25 motivated by evil intent, malice, it was a

1 malicious killing. Do you understand that?

2 A. Yes.

3 Q. Now we would be talking about the
4 appropriate sentence. As I understand, your
5 position would be, notwithstanding your own
6 personal feelings, you would be open to
7 considering all the evidence as to what would
8 be pertinent to determining that sentence and
9 then you would have to hear it all before you
10 could make a decision of what the appropriate
11 sentence would be. Is that correct?

12 A. Correct.

13 Q. All right. That's important for a number
14 of reasons. First of all, it would be
15 consistent with the law and your decision must
16 be consistent with the law and the facts. Do
17 you understand that?

18 A. Yes, I do.

19 Q. If you were on the jury?

20 A. (Affirmative nod).

21 Q. But, secondly, because it's not normal,
22 it's not the norm because in this state what
23 generally happens is that the jury decides
24 whether the State has met its burden of proof;
25 that is, it considers the evidence about the

1 crime but if they return a conviction the jury
2 is not going to participate in sentencing, the
3 judge would sentence them. It's only in
4 limited circumstances where the jury is
5 involved in the sentence. Okay? That's the
6 norm.

7 A. Okay.

8 Q. In that situation, the maximum sentence
9 that typically can be imposed by the court is
10 life imprisonment without the possibility of
11 parole. There is a lesser sentence than even
12 that that the court can consider imposing if it
13 chooses to, but the court can't even impose the
14 death sentence. Do you understand that?

15 A. Yes, sir.

16 Q. Okay. Therefore, when we start this
17 proceeding, one aspect of this second phase is
18 that in order for the State to have you as a
19 member of the jury to consider a death
20 sentence, they have to first establish beyond
21 a reasonable doubt the existence of some
22 aggravating circumstances, as the law provides.
23 There are a number of them. By way of example,
24 such as the killing of a police officer, the
25 killing of a child. If the jury in that

1 situation found beyond a reasonable doubt that
2 was done, then that jury would be entitled to
3 consider a death sentence, but not until they
4 found that beyond a reasonable doubt because
5 the law says if the jury does not find beyond a
6 reasonable doubt the existence of some
7 aggravating circumstances, you can't impose a
8 death sentence, you have to impose life without
9 parole. Would you have any problem following
10 that instruction?

11 A. No, sir.

12 Q. Now, an aggravating circumstance would be
13 defined, and that is a circumstance that makes
14 the crime worse than a typical murder; do you
15 understand that?

16 A. (Affirmative nod).

17 Q. In addition to that, you'd also hear some
18 other evidence that a jury would want to
19 consider in deciding to make a decision of what
20 the appropriate evidence -- that you would not
21 have heard in the first phase, none of this
22 would you have heard in the first phase. Do
23 you understand that?

24 A. Yes, sir.

25 Q. Because the first phase is limited

1 strictly to whether or not that crime was
2 committed by that individual and the State has
3 to prove that.

4 Now, we're in second phase where that
5 becomes evidence that is pertinent to the
6 jury's decision. Do you understand that?

7 A. Yes, sir.

8 Q. Some of that evidence may be mitigating
9 circumstances. Those are circumstances, which
10 some are provided by statute, some are non-
11 statutory, meaning that the law -- meaning that
12 the legislature has passed several statute
13 saying that 'these are mitigating circumstances
14 in this type of case' and some that aren't even
15 -- that the jury may consider that aren't even
16 statutorily provided. What those are, are
17 matters that a jury would be instructed to
18 consider which may lessen the culpability or
19 the seriousness of that murder. A lot of them
20 don't even deal with the crime itself, such as
21 what happened in this person's childhood; what
22 sort of things occurred to them, mental health
23 issues that may have occurred in their life
24 that may have some influence or affect how they
25 acted or didn't act that would not be insanity

1 but would have something that a jury may want
2 to consider and should consider before making a
3 determination.

4 Part of the instruction would be that you
5 would be required if those circumstances are
6 present in the evidence to give meaningful
7 consideration to those mitigating circumstances
8 before deciding on a sentence. Would you be
9 able to do that, honor the instruction?

10 A. Yes, sir.

11 Q. And you would do that?

12 A. Yes.

13 Q. Correct?

14 A. (Affirmative nod).

15 Q. In criminal disputes, the person accused
16 of criminal offenses isn't required to prove or
17 disprove anything, as I indicated to you on
18 Friday. The State would have no obligation --
19 the State is the only part that has any burden.
20 That applies in this situation that we're
21 talking about on your sheet, in the first phase
22 or the second phase. That means the penalty
23 phase, the defendant does not have to present
24 or explain anything. He doesn't have the duty
25 to present any evidence for your consideration

1 and I would instruct you that you could not use
2 that against him in any way. Would you have
3 any problem following that instruction?

4 A. No, sir.

5 Q. Therefore -- there may not be any
6 mitigating circumstances that you could
7 consider, but you wouldn't hold that against
8 the defendant? Do you understand that?

9 A. Yes.

10 Q. And you would not, is that correct?

11 A. (Affirmative nod). No, sir, I would not.

12 Q. That is important because, again, it's
13 part of the law but its also important because
14 in addition to all of these things that we have
15 talked about, now the jury's concluded that an
16 aggravating circumstance exists and, therefore,
17 the death penalty is an option. Okay?

18 A. (Affirmative nod).

19 Q. Now it is a potential sentence that the
20 jury may consider.

21 A. (Affirmative nod).

22 Q. I would instruct you that first of all --
23 if you found beyond a reasonable doubt an
24 aggravating circumstance, the jury has the
25 right to consider the death sentence but

1 they're not required to impose a death
2 sentence.

3 Nobody is going to tell you, the court is
4 not going to tell you that you must bring back
5 -- the court is not going to tell you that you
6 must bring back a death sentence if such and
7 such is present, because that's your sole
8 decision. Do you understand that?

9 A. Yes, sir.

10 Q. I would also instruct you that in
11 considering this, whether a death sentence or
12 life without parole without the possibility of
13 parole, the jury has the right -- even though
14 they could bring back a death sentence -- to
15 bring back life without the possibility of
16 parole for no reason whatsoever. It's just
17 your right to choose to do that if you choose
18 to do that. Do you understand that?

19 A. Yes, sir.

20 Q. And you could give consideration to that
21 aspect of the charge as well before you make a
22 determination as to what would be the
23 appropriate sentence; is that correct?

24 A. Yes, sir.

25 Q. And I understand, in that setting after

1 hearing all of the evidence and receiving the
2 instruction that we talked about, it is my
3 understanding that you as a type three juror
4 would then be able to talk with the jury,
5 evaluate the evidence, decide what you believe
6 to be the truth, then take the law and apply it
7 fairly and impartially to those facts and reach
8 a decision. Is that correct?

9 A. Yes, it is.

10 Q. And that decision, in that setting that
11 we're talking about on that sheet, could be a
12 death sentence or it could be life imprisonment
13 without the possibility of parole? It just
14 would depend on the circumstances that have
15 been established to exist, all of those factors
16 that we have talked about; is that correct?

17 A. Correct.

18 Q. And you don't have any predetermination --
19 or predecision -- don't have your mind made up
20 as to one way or the other, is that correct?

21 A. No, sir, I do not.

22 Q. All right. Let's talk now and focus for
23 just a few moments on this particular case. As
24 I mentioned to you, Mr. Dickerson has been
25 accused of several criminal offenses. He's

1 innocent, as we discussed. That's -- that law
2 applies to him and everybody charged with
3 criminal offenses. You have no problem
4 applying that, as I understand it; is that
5 correct?

6 A. Correct.

7 Q. And you understand that he doesn't have
8 any burden of proof either, because people
9 accused of criminal offense, such as we just
10 talked about, have no burden of proof and that
11 applies to him, too; is that correct?

12 A. Correct.

13 Q. And you were on the jury you wouldn't
14 expect him to prove anything or disprove
15 whatsoever. Is that true?

16 A. Correct.

17 Q. In fact, I would instruct you that if Mr.
18 Dickerson chose not to offer any evidence,
19 chose not to even testify, the jury could not
20 consider that against him in any way and you
21 would honor that. Is that correct?

22 A. Correct.

23 Q. And there's nothing that you've heard
24 about this case that would give us -- thus far
25 that would give you any concern about your

1 ability at the appropriate time, when directed
2 by the court, to evaluate the evidence, to
3 consider the evidence, to decide what you
4 believe to be the truth and then make a
5 decision to find the true facts of the dispute;
6 then, once deciding those facts, taking the law
7 as I gave it to you and applying that law
8 fairly and impartially to those facts. Is that
9 true?

10 A. That's true.

11 Q. And, one last question. In applying the
12 law and accepting it, you understand that we
13 are two separate judges working together. That
14 is the beauty of the system. I don't have
15 anything to do with the facts and you don't
16 have anything to do with the law. If in
17 receiving the law and listening to the law you
18 were to hear some law that would cause you to
19 think, 'Well, that's not what I thought it was'
20 or 'I don't agree with that principle of law',
21 that's not consistent with my beliefs', or 'I
22 think the law ought to be changed' or some
23 other similar feeling, the oath that you took
24 says "I promise you, as well, that if I should
25 have those feelings..." -- and I'm not saying

1 that you will, but if you did you would also
2 promise to set those feelings aside and not be
3 influenced at all by that, but rather take the
4 law as I give it to you. You could honor that,
5 as well?

6 A. Yes, sir.

7 THE COURT: Thank you. Please
8 answer any questions that the attorneys may
9 have.

10 MR. BLOOM: May it please the court.

11 VOIR DIRE EXAMINATION

12 BY MR. BLOOM:

13 Q. Ms. Mullen, good evening, ma'am. My name
14 is Jeff Bloom and along with Andrew Carroll, we
15 represent William Dickerson. I just have a few
16 followup questions from what Judge Dennis asked
17 you.

18 I apologize in advance but I need to ask
19 you first -- you've had a very unique
20 experience, being the member of a victim's
21 family.

22 A. (Affirmative nod).

23 Q. If I could just ask you a few questions on
24 that. Was that in this state that your
25 brother's case occurred?

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1 A. Yes, it was.

2 Q. Charleston County or ---

3 A. No, he was murdered outside of Shaw Air
4 Force Base.

5 Q. Was it a state or federal case?

6 A. State.

7 Q. And was there a trial or did the person
8 plead guilty?

9 A. Yes -- no, there was a trial.

10 Q. Was it a death penalty trial?

11 A. No, at the time that this went down they
12 didn't have the death penalty. He got life in
13 prison.

14 Q. Is it life without the possibility of
15 parole?

16 A. No.

17 Q. I ask that because I know the law has
18 changed.

19 A. (Affirmative nod).

20 Q. Judge Dennis, of course, has talked about
21 life without parole.

22 A. (Affirmative nod).

23 Q. Do you understand that since that period
24 of time the law has changed so that life really
25 does mean life without parole?

1 A. Yes, I do.

2 Q. Given that very tragic and profound
3 experience, has that affected your views since
4 that time to today?

5 A. In what regard?

6 Q. Pardon me? In terms of life without
7 parole or the death penalty?

8 A. When it first went down, I was only twelve
9 years old. Up until somewhere in my thirties,
10 yeah, I thought that if you did something like
11 that you should get the death penalty; but,
12 that was revenge. Since I've gotten older,
13 no. I've matured and I don't feel that way any
14 more.

15 Q. Thank you. You can understand why I kind
16 of have to have this conversation with you?

17 A. I understand.

18 Q. I apologize in that regard. In that
19 regard, -- well, let me ask you next, you have
20 had jury duty before, in a civil case?

21 A. Yeah, but it -- I mean, we got called in
22 and there weren't any cases that week. They
23 didn't -- they canceled the jury, so I just
24 went in and sat for a couple of hours and left.

25 Q. Okay. Did the jury actually render a

1 verdict in that case?

2 A. There was no case. Literally, we had no
3 cases.

4 Q. I see. Okay. Now, -- so you kind of know
5 the routine, but this is a little different,
6 coming in for this experience?

7 A. Yeah.

8 Q. You can understand why we have to ask you
9 a lot of these questions. Thank you for
10 letting us intrude on you.

11 A. (No verbal response).

12 Q. I just have a few remaining questions.
13 You understood Judge Dennis to tell you that
14 the law never requires the death penalty, when
15 the jury is trying to decide that, against life
16 without parole?

17 A. Yeah.

18 Q. And Judge Dennis would never order a jury
19 to find a death sentence?

20 A. Yes.

21 Q. After hearing all the evidence and the
22 circumstances, it is always up to each
23 individual juror after they've considered the
24 evidence and discussed it among themselves. Do
25 you understand that?

1 A. Yes, sir.

2 Q. In fact, a juror can decide, as Judge
3 Dennis told you, to give life for any reason or
4 for no reason, for a simple act of mercy. You
5 know that?

6 A. Yes.

7 Q. And if you were on such a jury after
8 you've heard all the evidence, all the
9 circumstances, Judge Dennis' instructions to
10 you on the law, after you've discussed it with
11 all your fellow jurors, each juror makes what
12 the law calls and requires an individualized,
13 reasoned moral judgment. Can you make that for
14 yourself in your heart of hearts?

15 A. Yes.

16 Q. Once you make that individualized and
17 reasoned moral judgment and you've discussed it
18 with your fellow jurors and heard everything,
19 if eleven jurors are voting one way and you're
20 voting another way, and you're confident in
21 your heart of hearts that you've made the right
22 individualized and moral judgment, can you
23 stand to that?

24 A. Yes.

25 Q. Okay. You're not the type of person who

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1 is going to say, 'You know what? It's dinner
2 time, I'm hungry, I'm going to go along to get
3 along and give up my vote.'

4 A. (Negative gesture).

5 Q. You're shaking your head 'no', the court
6 reporter has to ---

7 A. Oh, I'm sorry. "No."

8 Q. All right. You didn't strike me as that
9 person but you understand why I have to ask?

10 A. Yes, I do.

11 Q. You would ask those other jurors to
12 respect your vote?

13 A. Yes.

14 Q. Just as you would respect theirs?

15 A. Yes.

16 MR. BLOOM: Thank you very much for
17 your time.

18 THE COURT: Solicitor?

19 VOIR DIRE EXAMINATION

20 BY SOLICITOR WILSON:

21 Q. Hey, Ms. Mullen. I'm Scarlet Wilson, I'm
22 the Solicitor here. This is Bruce Durant and
23 Rutledge Durant and we're the prosecutors in
24 the case, so we will be the ones presenting
25 evidence once we get started.

1 A. Hi.

2 Q. I wanted to follow up on some of the
3 answers that you've given and -- also, we got a
4 copy of your questionnaire and I thank you for
5 filling that out.

6 A. (Affirmative nod).

7 Q. I want to make sure that nobody is trying
8 to change your mind or to put words in your
9 mouth. If I have something mixed up,
10 straighten me out because I'm kind of taking
11 answers from different questions and merging
12 them into one. In your questionnaire, you
13 wrote that you do not believe in the death
14 penalty and then here today you've said that
15 you could vote for death in certain
16 circumstances.

17 A. (Affirmative nod).

18 Q. If you could, just explain to us how if
19 you don't believe in it that you still would be
20 able to give the death penalty?

21 A. There are certain acts, certain things
22 that people do that even though I don't believe
23 in the death penalty I think are just so wrong,
24 so evil, and that's the only way that I can
25 describe it, that you -- you just can't say,

1 you know.

2 Q. So it really just depends on the facts of
3 the situation?

4 A. Yes, definitely.

5 Q. And another thing, and again I don't want
6 to put words into your mouth, when you were
7 talking to Mr. Bloom about your brother's case
8 you stated that for a long time -- it sounded
9 like you wished that the death penalty would
10 have been sought or ---

11 A. Yes.

12 Q. --- given ---

13 A. Yes.

14 Q. That sometime along in your thirties that
15 you had a change of heart about that and you
16 said that was because that was "revenge" and
17 you don't feel that way now.

18 A. Right.

19 Q. Do you feel that the death penalty is
20 always about revenge?

21 A. No. No, but that is -- that's the
22 viewpoint from a victim.

23 Q. Right.

24 A. You know what I'm saying?

25 Q. Right.

1 A. If you're a toddler and somebody hits you,
2 the first thing you do is strike back. I mean,
3 that's just -- that's the way I think. You
4 know, after a while I really thought about it
5 -- you have to understand that having someone
6 that is murdered and then -- in this case he
7 was given life, but it was not life without
8 parole.

9 Q. Right.

10 A. Therefore, every two years you have to go
11 and stand before that parole board and you have
12 to tell them that, 'Hey, I'm here. I don't
13 want him out. That's not right.'

14 Q. I understand.

15 A. To go through that process, to have to --
16 it's something that I've done since my early
17 twenties. You know, after a while your thought
18 process changes and it evolves.

19 Q. I understand.

20 A. This may sound bad but I think it's more
21 benefitting to deny him rights and privileges
22 that we have and he's still alive, because he
23 can appreciate that more; to my way of
24 thinking.

25 Q. That makes sense. I hear you. I was just

1 concerned when you used the word "revenge", and
2 I think I've got what you were saying now.
3 You're saying that with respect to your
4 situation that your thoughts and feelings
5 weren't really objective because you were
6 involved?

7 A. Right.

8 Q. Okay. Now, as you've -- tell me if this
9 is accurate. It sounds like you're saying that
10 perhaps his being in prison or life without
11 parole is worse than the death penalty in some
12 ways?

13 A. In some ways, yeah, I think -- but, you
14 know, that's personal for me for what he did.
15 You know?

16 Q. Right. And when you say that it's
17 personal, you -- are you saying that sometimes
18 life without parole might not be harder than
19 the death penalty; again, that it just depends
20 on the situation?

21 A. It depends on the situation. It depends
22 upon what that person did. I mean, some people
23 do things that -- (pause) -- they don't feel
24 the same way, you know? They don't appreciate
25 that -- that freedom or that.

1 Q. I understand. Listen, I appreciate you
2 answering our questions and really thinking
3 hard about it. I know it's difficult. I'm
4 sorry about that situation with your family.
5 We certainly know how hard it is to have to go
6 up there year after year.

7 SOLICITOR WILSON: That's all that I
8 have.

9 THE COURT: Thank you, Solicitor.

10 MR. BLOOM: Anything further, Mr.
11 Bloom?

12 MR. BLOOM: Nothing further.

13 THE COURT: Ms. Mullen, thank you
14 very much. If you could step out just for a
15 moment, we will be with you momentarily.

16 (JUROR NUMBER 221 EXITS COURTROOM)

17 THE COURT: What is the State's
18 position on this juror?

19 SOLICITOR WILSON: I think she's
20 qualified.

21 MR. BLOOM: She's qualified.

22 THE COURT: I agree. I think -- I
23 must state that I was concerned about the
24 brother. I appreciate your questions because
25 you've allayed any concern I have about that.

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1 I believe this lady could be a very
2 conscientious juror. She has indicated that
3 she could. Bring her in.

4 (JUROR NUMBER 221 ENTERS COURTROOM)

5 THE COURT: Thank you very much, and
6 I appreciate your patience this afternoon and
7 your endurance. You've been found to be
8 qualified to be a member of the panel from
9 which we will select our jury that will
10 ultimately decide this case.

11 That will take place Thursday morning
12 at 9:30 in this courtroom. I am going to ask
13 that you return Thursday morning by 9:30. When
14 you come back, you can take your seat in the
15 audience. We will select our jury. Please
16 understand that at that time -- once we select
17 the jury, we will be prepared to start trying
18 the case, so be prepared to stay for the day if
19 need be because we will begin the trial. I
20 shouldn't say begin the trial but will begin to
21 take testimony in this case.

22 Until then and until you have been
23 dismissed from this case, please remember that
24 you still are not at liberty to discuss this
25 case with anyone or permit anyone to talk with

1 you about it. Also, please continue not to
2 watch any news programs about it or read any
3 news accounts. Have a great day and we'll see
4 you Thursday morning.

5 Have a good evening.

6 (JUROR NUMBER 221 EXISTS COURTROOM)

7 THE COURT: Mr. Smith, Number 289.

8 (JUROR NUMBER 289 ENTERS COURTROOM)

9 THE COURT: Mr. Smith, good evening
10 to you, sir. We appreciate your patience.
11 There's no way to anticipate how long these
12 things take and we apologize that it has taken
13 so long. We appreciate your involvement and
14 your endurance through the process and we won't
15 keep you much longer.

16 If you will sit and pull yourself up
17 so that you can speak into that mic
18 comfortably.

19 We want to continue the process that
20 we started on Friday. That is, we're going to
21 ask you some questions concerning this case and
22 other things that really is designed to help
23 you, and to help us, decide whether you can be
24 a fair and impartial juror in this matter with
25 us.

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1 There are really no correct answers to
2 any of these questions. We also are not here
3 to change your mind about how you feel about
4 certain things, any philosophies that you have.
5 I don't want you to feel like you have to
6 change yourself for any reason whatsoever,
7 because you are entitled to those opinions and
8 beliefs. All that we ask is that you be candid
9 and truthful in responding to questions and
10 completely answer the questions. Can we count
11 on you to do that, sir?

12 JUROR NUMBER 289: Yes, sir.

13 THE COURT: I would remind you that
14 you're still under oath in this matter.

15 JUROR NUMBER 289: Yes, sir.

16 DAMON R. SMITH, being duly sworn
17 to tell the truth, the whole truth and nothing
18 but the truth, testified, as follows:

19 VOIR DIRE EXAMINATION

20 BY THE COURT:

21 Q. Mr. Smith, since we were last together,
22 have you talked with anyone or allowed anybody
23 to talk with you or talk about this case in
24 your presence?

25 A. No, sir.

1 Q. Have you read any newspaper articles or
2 watched any news programs about the case?

3 A. No, sir.

4 Q. I mentioned a number of names on Friday
5 and asked you whether you had any connection or
6 relation to them. I failed to mentioned two
7 that I need to ask you about. Are you related
8 by blood or marriage, have any business
9 dealings with or socially or casually
10 acquainted with, or have any dealings with Jeff
11 Osborne or Matt Casey?

12 A. Not to my knowledge, sir.

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. I have.

17 Q. Which type most accurately describes you?

18 A. (Pause) -- in all fairness, I have to say
19 type number three.

20 Q. Number three?

21 A. (Affirmative nod).

22 Q. Basically that's the type of juror who
23 when presented with the situation of having to
24 decide the penalty for murder -- you're saying
25 that 'I don't really have any idea until I've

1 heard all the evidence, all of the
2 circumstances and then I would have to talk
3 about it and make a decision after being
4 instructed on the law as to which one was the
5 most appropriate.'

6 A. Well, the situation is a bit ambiguous but

7 ---

8 Q. Well, let me try to clarify it for you.

9 A. Sure.

10 Q. And you tell me whether I've -- if it is
11 still ambiguous after that.

12 A. Okay.

13 Q. The first thing concerning that sheet is
14 that -- because that would be a jury -- first
15 of all, let's talk about generally. Generally
16 in murder trials, a jury is not involved in
17 sentencing. Generally a jury is empaneled to
18 hear the guilty phase, what I've talked about
19 as the first phase that I mentioned to you on
20 Friday.

21 A. (Affirmative nod).

22 Q. They would hear the evidence concerning
23 solely whether the person accused is the person
24 who committed the offense. That's it, that's
25 all that they hear.-

1 Q. That is similar to the sheet that we have
2 in that case that we're talking about, that
3 imaginary case. You would have been on the
4 jury panel and you would have heard evidence of
5 someone being accused of murder and you would
6 have decided several things:

7 Number one, you would have decided
8 that the offense charged, the State was
9 correct, they got the person who did it, no
10 question about it.

11 Secondly, there's no question that the
12 offense committed was murder. That's the
13 killing of another with malice aforethought.
14 That means that it wasn't a mistake, wasn't any
15 self-defense, means that there wasn't some
16 provocation that would reduce it to
17 manslaughter, which is a lesser-included
18 offense. It means that after the jury
19 considered it, no ifs, ands or buts, this
20 person intended to kill someone, they did it --
21 they were motivated with evil purpose, evil
22 thoughts, malice, and they carried it out, no
23 ifs, ands or buts.

24 So that's where you are.

25 A. Okay.

1 Q. Now you're about to start the second
2 phase. The second phase is where you're going
3 to hear evidence about the appropriate
4 sentence, because -- that's for lots of
5 reasons:

6 Number one, the jury has to hear the
7 evidence to consider in fashioning a sentence.

8 But, more important than that even,
9 before a jury can even consider a death
10 sentence, the State has to prove beyond a
11 reasonable doubt some aggravating circumstance.
12 The law in this State is that it is in very
13 limited situations where the death sentence may
14 be imposed.

15 Normally in a murder trial once the jury
16 makes the determination that you would have
17 made in that case, the judge would impose the
18 sentence. The judge has the option of imposing
19 a life without parole or some lesser amount of
20 time, but the judge has no option to impose a
21 death sentence in that setting. Okay?

22 A. Okay.

23 Q. Typically.

24 A. Okay.

25 Q. In this case, the first thing that has to

1 be decided for the jury to consider that is
2 that the jury -- the judge would instruct you,
3 after hearing all the evidence, that you have
4 to determine if the State has established, and
5 there are a number of aggravating circumstances
6 that the law provides; such as, the killing of
7 a police officer, the killing of a child and
8 there are numbers of others.

9 For that jury to consider, even consider
10 the death penalty they have to determine that
11 that had been established beyond a reasonable
12 doubt. With that, obviously you're taking into
13 consideration what you've already heard but
14 there may be some additional evidence
15 concerning that that you didn't hear in the
16 first phase. Do you understand that?

17 A. I do.

18 Q. So has the ambiguity been cleared a little
19 bit at this time?

20 A. A bit, yes, sir.

21 Q. At this point, as a type three juror, you
22 still would have no decision in your mind of
23 what the most appropriate sentence would be.
24 Would that be you?

25 A. No, sir.

1 Q. Where would you be?

2 A. I'd fall closer to the type one.

3 Q. All right. So you would be a person that
4 would say that 'I am more inclined for a death
5 sentence here.'

6 A. Given the fact that you mentioned evil,
7 malice aforethought, etc., and of course
8 depending on the specific details but I'd have
9 to be inclined more to be a type one.

10 Q. All right. Let me ask you this, given
11 what we've said, let me add this other part to
12 it and see if that clarifies anything or causes
13 you to say, 'Well, maybe that does change
14 something.' I need to give you -- you stated
15 that there was some ambiguity.

16 A. Right.

17 Q. Assuming that the jury found an
18 aggravating circumstance -- and obviously if
19 they didn't, then the only verdict that the
20 jury could return would be life without parole,
21 because they would have to find any aggravating
22 circumstance. Assuming that you, in that
23 situation, would have found an aggravating
24 circumstance -- okay?

25 A. Okay.

1 Q. Now the jury now has the option, because
2 of that finding beyond a reasonable doubt, that
3 finding gave you the right now to consider it
4 -- okay?

5 A. There are a number of other things that
6 you would be asked to consider, other factors
7 that may be offered for you to consider in what
8 would be an appropriate sentence -- mitigating
9 circumstances may be present in the record. I
10 would instruct you that if they are then you
11 must give meaningful consideration to
12 mitigating circumstances; those, some are
13 statutory and some are nonstatutory, such as
14 what was the person's childhood, did they have
15 certain things happen to them, did they suffer
16 from some addictions, were they -- did they
17 have some mental problems or emotional
18 disorders that would have affected and given
19 them some reason for why they acted the way
20 that they did. Those types of things. If they
21 were present, you would be instructed to
22 consider those before fashioning a sentence,
23 before deciding on what sentence you would
24 impose. Would you be able to do that, given
25 your general statement that you just made that

1 'I would be more inclined for a death
2 sentence'?

3 A. I would, that's a tough question to answer
4 hypothetically.

5 Q. I understand that and I appreciate that
6 but the question is, you're entitled to your
7 belief. The question is, would that belief in
8 any way hinder you from giving meaningful
9 consideration? That's the question. Only you
10 can answer that question.

11 A. Yeah -- (pause): I would love to tell you
12 one way or the other for certain, but I
13 honestly do not know until I'm presented with
14 the actual specifics. I just don't know.

15 Q. Well, let me ask you this. If at the end,
16 given the choice between life and the death
17 sentence, would you be able to in some
18 circumstances impose a life without parole when
19 somebody has been convicted of a malicious
20 murder?

21 A. I'd have to assume that it's possible,
22 yes.

23 Q. Okay.

24 THE COURT: All right. I am going
25 to ask you to answer any questions that the

1 attorneys may have. I may have some followup
2 questions after they finish. Proceed,
3 Solicitor.

4 VOIR DIRE EXAMINATION

5 BY SOLICITOR WILSON:

6 Q. Mr. Smith, I'm Scarlet Wilson, I'm the
7 Solicitor here. This is Bruce Durant and
8 Rutledge Durant and they both are prosecutors
9 in my office, as well.

10 I want to ask you some followup questions
11 based on your questionnaire and based on your
12 conversation with Judge Dennis. Again, no
13 right or wrong answers. We're just trying to
14 figure out where ---

15 A. I understand. Sure.

16 Q. I'm sure you've never been questioned in
17 this much detail about this topic.

18 A. No. No, I haven't.

19 Q. In your questionnaire, it sounded like you
20 have some pretty strong feelings. You said
21 regarding the death penalty, "I'm for it.
22 Personally, I think some individuals after
23 being found guilty should be marched out back
24 and summarily shot."

25 A. Yes, ma'am.

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1 Q. So I'm taking that to mean that you find
2 yourself leaning towards the death penalty?

3 A. I do.

4 Q. Under the law, as Judge Dennis was telling
5 you, it's not about whether you're a type one,
6 two or three or whether or not you believe in
7 the death penalty, the key question is whether
8 or not you can take those beliefs, set them
9 aside and do what the Judge tells you to do.
10 That's where we are. Do you think that you
11 could do that?

12 A. Yeah, I can. As I indicated to the Judge,
13 it's hard to say until I'm faced with the
14 actual process.

15 Q. Okay. Well, let's kind of walk through
16 it. You understand that in South Carolina we
17 don't have different degrees of murder like
18 other places? We have murder, which is -- as
19 the Judge was saying -- a malicious killing
20 with intent, evil, malicious, you name it.

21 So if someone has been convicted of
22 murder, that's what we are talking about. We
23 aren't talking about an accident, we aren't
24 talking about some sort of legal provocation
25 situation. We're not talking about self-

1 defense. None of that. Okay?

2 So to even get to the death penalty, life

3 without parole phase, someone has to be

4 convicted of something that bad.

5 A. That's right.

6 Q. And that's when -- the Judge will instruct

7 you, first of all, that that alone isn't enough

8 for the death penalty under our law. Can you

9 accept that?

10 A. Sure.

11 Q. You don't have an issue with that?

12 A. The fact that someone has been accused of

13 a ---

14 Q. That someone has now been convicted ---

15 A. Someone has now been convicted of murder

16 and that alone is not enough?

17 Q. Right.

18 A. Yes.

19 Q. You could accept that?

20 A. Yes.

21 Q. The next thing that would happen, a few

22 things that would happen in the next phase --

23 but the next thing would be that the State

24 would be required to prove something beyond

25 that murder, called aggravating circumstances.

1 We have to prove, again beyond a reasonable
2 doubt, an aggravating circumstance. The Judge
3 would tell you that you couldn't make up your
4 mind until we had done that.

5 A. Okay.

6 Q. He would tell you to wait. Could you wait
7 and see if we had done that, if we had proven
8 that aggravating circumstance beyond a
9 reasonable doubt?

10 A. Yes.

11 Q. Now, only then, if the jury as a whole had
12 found beyond a reasonable doubt that we'd
13 proven that aggravating circumstance would you
14 be able to consider the death penalty. But the
15 Judge would also tell you that -- again, as he
16 told you earlier, that even at that point you
17 couldn't just stop. You'd have to keep an open
18 mind and meaningfully consider any mitigation.
19 That would be anything about the defendant or
20 anything about the crime that you hadn't heard,
21 possibly, in the prior phase, anything that
22 might shed light on why this defendant acted
23 the way that he did or why the crime occurred
24 the way that it did. You would have to give
25 meaningful consideration to that. Do you think

1 you could set aside your beliefs and give it
2 that meaningful consideration?

3 A. Can you explain to me why there would be
4 facts that would not come to light in the
5 initial part, that would only come to light
6 after the fact?

7 THE COURT: Let me answer that.
8 Because that's the way that the process works.
9 The process -- the first part, we're dealing
10 with one issue because, as I stated, this is
11 not the norm. The norm is that the jury is
12 never involved, so it's just something that the
13 court would hear.

14 JUROR NUMBER 289: Okay.

15 THE COURT: That's just the way it
16 is. The first part is limited, it's
17 restricted, there are rules that apply and
18 that's -- it's not relevant evidence for the
19 first part. It only becomes relevant when that
20 becomes ---

21 JUROR NUMBER 289: I understand.

22 THE COURT: Excuse me, Solicitor,
23 for interrupting you.

24 EXAMINATION CONTINUED

25 BY SOLICITOR WILSON:

1 Q. That is what the Judge would do
2 throughout, tell you what the law is and maybe
3 -- sometimes life is that way, usually not, but
4 that's how it is and that's what you've got to
5 do. So the question would be whether or not
6 seriously you could give meaningful
7 consideration to that, listen to it, not just
8 give it lip service, not just give the answer
9 that you think we want to hear, but can you
10 listen to it and consider it before making your
11 decision?

12 A. I would love to be able to tell you
13 definitely 'yes' or 'no', I'd like to say
14 'yes.'

15 Q. Okay.

16 A. But I can't guarantee anything until I ---

17 Q. Until you hear it?

18 A. (Affirmative nod), until I have it sitting
19 there. The good person in me, the person who
20 stands up and wants to do the right thing,
21 absolutely wants to say yes but I do have
22 fairly strong opinions about some things and I
23 don't want that to ---

24 Q. I think that's fair. I appreciate that.

25 A. --- color my ---

1 Q. Well, I'm happy that it didn't color it
2 enough that you didn't tell us the story, that
3 you told us a story, so -- that's a good thing.
4 All right? Thank you.

5 SOLICITOR WILSON: Thank you.

6 THE COURT: I am going to ask -- Mr.
7 Smith, I am going to ask that you step out just
8 for a few moments. We will be with you in just
9 a few moments.

10 (JUROR NUMBER 289 EXITS COURTROOM)

11 THE COURT: It was, and I -- I think
12 he's sincere in what he says. I honestly
13 believe that last statement is probably true,
14 how he feels. He wants so disparately to be
15 able to say, 'you know, that's what I should
16 do.' I think he'd like to think that he would
17 do it but I can't run the risk of allowing that
18 to happen.

19 SOLICITOR WILSON: I don't -- I can't
20 ---

21 THE COURT: You don't disagree with
22 that?

23 SOLICITOR WILSON: No, sir. Let's
24 ask him to come in.

25 (JUROR NUMBER 289 ENTERS COURTROOM)

1 THE COURT: Mr. Smith, as I told you
2 when we started, the beauty of this process is
3 that you have the right to believe however you
4 believe and it doesn't matter whether anybody
5 in this room agrees with you -- that's the
6 beauty of this wonderful country in which we
7 live. I respect you -- as the Solicitor
8 stated, I respect you for being honest and very
9 candid. Thank you for that. You are, again,
10 an example of why I believe so strongly in this
11 process. You've honored it in every respect.
12 I am not going to put you in that position, I
13 am going to excuse you from participation in
14 this. I heard what you said and it was obvious
15 that you would love to answer the question, but
16 I appreciate the fact that you said 'I can't.'
17 Rather than to run the risk -- you may be able
18 to, but I am not going to put you through that.
19 I am going to excuse you from any further
20 participation.

21 I appreciate very much your
22 participation and your commitment to the
23 process, sir. You are now excused from any
24 further jury service. Good luck to you, sir.

25 JUROR NUMBER 289: Thank you, Your

1 Honor.

2 (JUROR NUMBER 289 EXITS COURTROOM)

3 THE COURT: All right, the last one,
4 Ms. Grant, Number 364.

5 (JUROR NUMBER 364 ENTERS COURTROOM)

6 THE COURT: Ready to go home, Ms.
7 Grant?

8 JUROR NUMBER 364: (Affirmative nod).

9 THE COURT: We're almost there.
10 Thank you so much for being patient. I'm sorry
11 -- somebody has got to be the last person in
12 the room and I'm sorry you had to endure that
13 but thank you very much, ma'am. We appreciate
14 it. We won't keep you much longer.

15 There are some questions that we need
16 to ask you. It really is a continuation of
17 what we started on Friday when we started
18 talking about certain things and I asked all of
19 you when you were together a number of
20 questions. I am going to continue to ask you
21 some questions and the attorneys may also have
22 some questions for you. Okay?

23 JUROR NUMBER 364: (Affirmative nod).

24 THE COURT: I need for you to
25 answer, please, ma'am, with words. Okay?

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1 JUROR NUMBER 364: Okay.

2 THE COURT: Because this lady (court
3 reporter) seated between us is taking down
4 everything that I am saying and that you are
5 saying. Okay.

6 JUROR NUMBER 364: Okay.

7 THE COURT: Let me remind you that
8 you're still under oath and tell you that we
9 only ask that you truthfully respond to the
10 questions and that you answer them fully. Are
11 you willing to do that, ma'am?

12 JUROR NUMBER 364: Yes, sir.

13 MARILYN GRANT, being duly sworn to
14 tell the truth, the whole truth and nothing but
15 the truth, testified, as follows:

16 VOIR DIRE EXAMINATION

17 BY THE COURT:

18 Q. Ms. Grant, since we were together on
19 Friday, have you talked with anyone about this
20 case or allowed anybody to talk with you about
21 this case?

22 A. No, sir.

23 Q. Have you watched any news programs or read
24 any newspaper articles about this case?

25 A. No, sir.

1 Q. I failed to mention two names that I need
2 to ask you about. Are you related by blood or
3 marriage, have any business dealings with or
4 socially or casually acquainted with or have
5 any dealings with Jeff Osborne or Matt Casey?

6 A. No, sir.

7 Q. You were given a sheet when you came in
8 that sets forth three types of jurors, have you
9 had a opportunity to review that sheet?

10 A. Yes, sir.

11 Q. Which type best describes you?

12 A. Type three.

13 Q. That means that you are a person that you
14 are -- if those jurors have, on that sheet,
15 have the responsibility of deciding the
16 appropriate sentence for a murder trial, and
17 you have the option of including as a possible
18 sentence a death sentence, there are situations
19 where you could impose a death sentence and
20 there are situations where you would impose a
21 life sentence. Which one is most appropriate,
22 you don't know until you have heard all the
23 facts and circumstances; is that right?

24 A. (Affirmative nod).

25 Q. That means -- lets talk about that, where

1 we would be if you were one of those jurors.
2 Obviously that would be -- the jury would be at
3 the point where the jury would have already
4 heard the evidence about murder and they would
5 have concluded that the person they were trying
6 was the person who committed the charge (sic)
7 of murder. Do you understand that?

8 A. Yes, sir.

9 Q. And they found him guilty of murder. In
10 other words, there wasn't any question that
11 this person intended to kill somebody, that
12 they did it with malice, that they were
13 motivated by evil reasons, not for any
14 legitimate reason, no -- nothing that could
15 make it less such as manslaughter, they weren't
16 provoked into anything, they just went out and
17 killed somebody and that's what the jury
18 concluded. That they intended to do what they
19 did, that it wasn't a mistake, that it wasn't
20 accident, that it wasn't self-defense. Okay?

21 A. Okay.

22 Q. And if you're in that jury that we're
23 talking about on that sheet, you're about to
24 start the second phase where you're going to
25 hear some additional evidence, more than what

1 you heard in the first. You'll be considering
2 that, what you heard, but you're going to hear
3 some other things than what you heard in the
4 first phase. Do you understand that?

5 A. Yes, sir.

6 Q. As I understand a type three juror, at
7 that moment -- no matter -- it doesn't matter
8 that you convicted this person, found them
9 guilty of murder, you still don't know whether
10 you would impose a life sentence or a death
11 sentence; is that right?

12 A. Yes, sir.

13 Q. You would have to hear the rest of the
14 evidence, as I understand?

15 A. Yes, sir.

16 Q. One of the things that would happen in
17 that, if you were in that, the court would tell
18 you in that situation that before you could
19 even think about giving somebody a death
20 sentence that you would have to make a
21 determination from the evidence that you would
22 hear -- and the State would have to prove that,
23 the person accused of that wouldn't have to
24 prove it. Okay?

25 A. Okay.

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1 Q. Because that person never has to prove
2 anything. Do you understand that?

3 A. Yes, sir.

4 Q. People accused of criminal offenses don't
5 have to prove or disprove anything, they don't
6 have to prove their innocence, do you
7 understand?

8 A. Yes, sir.

9 Q. You don't have any problem with that law,
10 do you?

11 A. No, sir.

12 Q. In order for you to consider a death
13 sentence, the judge would tell you that you've
14 first got to find that there is something that
15 causes this murder to be different.

16 "Different" meaning -- because, normally, a
17 jury doesn't impose a sentence, determine the
18 sentence in a murder case. That's only by the
19 judge who tries the case.

20 But in this circumstance the State was
21 seeking a possible death sentence, so they
22 empanel a jury and the jury is going to have to
23 decide whether the State proved to the jury,
24 first, that there was some aggravating
25 circumstance. That is something that the law

1 says makes it worse than just a typical murder.

2 To give you an example of something, the
3 law says that if someone kills a police officer
4 that the State can seek the death sentence for
5 that and if they prove that a person killed a
6 police officer then that jury may consider a
7 death sentence. Another example is if someone
8 killed a child, the State may if they chose to
9 seek the death penalty and if a jury determines
10 that was established, that a person killed a
11 child, beyond a reasonable doubt then they
12 could consider a death sentence.

13 Do you understand?

14 A. Yes, sir.

15 Q. Okay. So before you could even consider
16 that, you have to find that there was some
17 aggravating circumstance. The court would tell
18 you the various circumstances that you may
19 consider.

20 If the jury finds, 'Well, no, we're not
21 convinced that there was an aggravating
22 circumstance', then the court would say that
23 'you have to return life without parole.'

24 Would you be able to do that ---

25 A. Yes, sir.

1 Q. --- if you were on that jury?

2 A. Yes, sir.

3 Q. Okay. Assuming for a moment in that case
4 where we're talking about where you, as a type
5 three juror, the jury determined there was an
6 aggravating circumstance, that they found that
7 beyond a reasonable doubt, -- okay?

8 A. (Affirmative nod).

9 Q. Now, as I told you, now the jury can
10 consider life imprisonment without the
11 possibility of parole or they can consider the
12 death sentence. Do you understand that?

13 A. Yes, sir.

14 Q. It is my understanding that you could give
15 consideration to either of those sentences; is
16 that correct?

17 A. Yes, sir.

18 Q. There may be some circumstances where you
19 would say, 'Well, I think the death penalty is
20 most appropriate.' There may be some where you
21 may say, 'Well, I think life imprisonment is
22 the most important.' Do you understand that?

23 A. Yes, sir.

24 Q. That's true for you?

25 A. Yes, sir.

1 Q. Is that correct?

2 A. Yes, sir.

3 Q. I will tell you, if I was the judge, that
4 while you may consider it that you don't have
5 to return a death sentence. Would you have any
6 problem following that instruction?

7 A. (No response).

8 Q. In other words, it's your option. You
9 make the call. You make the decision whether
10 your want life or -- if you want to impose life
11 or death. Do you understand that?

12 A. Yes, sir.

13 Q. And you could follow that instruction, as
14 well?

15 A. Yes, sir.

16 Q. I would also tell you that in addition to
17 the aggravating circumstances and other
18 evidence that you would hear that there may be
19 something that we call mitigating
20 circumstances. Those are circumstances that
21 tend -- while the aggravating tends to make the
22 murder worse, mitigating circumstances are
23 things that seem to say 'oh, that explains
24 maybe why that person would have acted the way
25 that they did.' Such as how the person was

1 treated when they were a child, what sort of
2 emotional or mental problems that they may have
3 had, were they addicted to some drugs and under
4 the influence of those drugs at the time this
5 act was committed. Those are the types of
6 statutory mitigating and nonstatutory. If
7 those exist, I would instruct you that you have
8 to consider those -- meaningfully. That means
9 really think about them before determining what
10 sentence that you would impose. Would you be
11 able to follow that instruction?

12 A. Yes, sir.

13 Q. And you would do that?

14 A. Yes, sir.

15 Q. There may not be anything -- there may not
16 be any mitigating circumstances. I'd tell you,
17 of course, that the State has to prove -- is
18 the only part that has to prove anything. The
19 person accused of the crime doesn't have to
20 prove anything. Do you understand that?

21 A. Yes, sir.

22 Q. Okay. I would tell you that if they
23 choose not to present any evidence, whether in
24 the first phase or the second phase, it doesn't
25 matter, you still can't use that against them.

1 Would you have any trouble following that
2 instruction?

3 A. No, sir.

4 Q. So you wouldn't hold that against them,
5 that there may not be any evidence in
6 mitigation?

7 A. No, sir.

8 Q. Well, that's good because that would be
9 the law. But there is also another reason. In
10 addition to all of that that we've just talked
11 about, I would further instruct you that the
12 jury has the right, even though they could give
13 a death sentence or life imprisonment without
14 the possibility of parole, they can choose life
15 without parole for no reason whatsoever, if
16 they choose to. In other words, that's your
17 right if that's what you want to do and all of
18 them want to do that. Do you understand that?

19 A. Yes, sir.

20 Q. Would you have any problem following that?

21 A. No, sir.

22 Q. So it's my understanding then, Ms. Grant,
23 that at that point after you've heard all the
24 evidence and you've considered all the
25 evidence, including any aggravating

1 . circumstances and/or any mitigating
2 circumstances, you would be able to apply your
3 common sense, your sense of logic and reasoning
4 fairly and impartially and decide what you
5 believe to be the truth?

6 A. Yes, sir.

7 Q. Then once doing that, you could take the
8 law as I gave it to you concerning the
9 potential sentence, evaluate everything and
10 decide whether you wanted to impose life
11 imprisonment without the possibility of parole
12 or a death sentence?

13 A. Yes, sir.

14 Q. And there are circumstances that you can
15 think of that would cause you to say death is
16 the best sentence in this case?

17 A. No, sir.

18 Q. There are none?

19 A. (No verbal response).

20 Q. Well, you said you could consider them.
21 You mean that you may consider them but there
22 is no time that you would impose a death
23 sentence?

24 A. Yes, sir.

25 Q. You could impose a death sentence?

1 A. Um-hummm

2 Q. So you didn't understand my question?

3 A. No, sir.

4 Q. I'm saying that -- and I'm not asking you

5 to tell me what those circumstances are. I am

6 just asking you, at that point you could

7 evaluate all the evidence and if you thought

8 the crime was bad enough to rise to the level

9 that you have in your mind that would warrant

10 you giving a death sentence, you could impose a

11 death sentence?

12 A. Oh -- yes, sir.

13 Q. If the situation was warranted?

14 A. Yes, sir.

15 Q. Likewise, even though you could impose a

16 death sentence there are times when you, in

17 looking at it, would say 'Nope, don't think the

18 death sentence is appropriate. I think life

19 imprisonment without the possibility of parole

20 is the most appropriate sentence.'

21 A. Yes, sir.

22 Q. And you could make that choice?

23 A. Yes, sir.

24 Q. And you could do that fairly and

25 impartially?

1 A. Yes, sir.

2 Q. Let's look for a moment at this particular
3 case. As I mentioned to you on Friday, Mr.
4 Dickerson of course has been accused of several
5 criminal violations. You understand that?

6 A. Um-humm.

7 Q. And we talked about him being presumed
8 innocent, and you didn't have any problem with
9 that, is that right?

10 A. Yes, sir.

11 Q. You believe in that principle of law?

12 A. Yes, sir.

13 Q. And that means that as he sits here today
14 he is innocent of these charges. Do you
15 believe that to be the case?

16 A. Yes, sir.

17 Q. And you understand that you can't change
18 that position until the State presents evidence
19 that persuades you beyond a reasonable doubt
20 that he is guilty of the offense. Do you
21 understand that?

22 A. Yes, sir.

23 Q. But if the State presents that evidence
24 and persuades you as to each of those elements,
25 would you have any problem returning a verdict

1 of guilty?

2 A. No, sir.

3 Q. Likewise, if they failed to prove one of
4 the elements required, would you have any
5 hesitancy of returning a verdict of not guilty?

6 A. No, sir.

7 Q. Whatever, you'd hold the State to its
8 burden of proof is what you're telling us?

9 A. Yes, sir.

10 Q. And you understand, just as I told you
11 about in that case that we talked about in the
12 sheet there, Mr. Dickerson has absolutely
13 nothing to prove or disprove. Do you
14 understand that?

15 A. Yes, sir.

16 Q. In fact, he doesn't have to present any
17 evidence, he doesn't even have to testify and
18 if he does not I would instruct you that you
19 wouldn't use that against him under any
20 circumstances. Would you have any problem
21 following that instruction?

22 A. No, sir.

23 Q. So it is my understanding that you could
24 be and are willing to accept the responsibility
25 at the appropriate time, when directed to do so

1 by the court, of considering the evidence,
2 applying your common sense, your sense of logic
3 and reasoning, fairly and impartially in
4 deciding what you believe to be the true facts.
5 You believe that you could do that?

6 A. Yes, sir.

7 Q. And once you decide that, you're also
8 willing to accept the law as I give it to you
9 and apply that law fairly and impartially to
10 those facts so that you would arrive at a
11 decision that would be fair to the State and to
12 Mr. Dickerson?

13 A. Yes, sir.

14 THE COURT: Thank you. Please
15 answer any questions that the attorneys may
16 have.

17 VOIR DIRE EXAMINATION

18 BY MR. BLOOM:

19 Q. Good evening, Ms. Grant. How are you
20 today?

21 A. Fine.

22 Q. Thank you for being with us. I'll try not
23 to be too long. My name is Jeff Bloom and
24 along with Andrew Carroll, we represent William
25 Dickerson. I just have a few followup

1 questions from what Judge Dennis asked you.

2 Okay?

3 A. Okay.

4 Q. If after work you and I were just chatting
5 and something came on the news on TV, or some
6 show, about the death penalty or something and
7 we got to talking about our opinions and I
8 turned to you and said, 'Gee, what is your
9 opinion about the death penalty?' What would
10 your response be?

11 A. (No verbal response).

12 Q. Or have you not given it much thought?

13 A. (No verbal response).

14 Q. I take it from your responses with Judge
15 Dennis that it would just depend on the
16 circumstances of each case, that each case
17 might be different?

18 A. Yes, sir.

19 Q. Is that how I took your responses and
20 answers to Judge Dennis?

21 A. Yes, sir.

22 Q. Same thing with life without parole, you
23 could give life without parole depending on the
24 circumstances in a situation?

25 A. Yes, sir.

1 Q. So it is not an issue that you've really
2 thought a lot about or that you've had a lot of
3 encounters about. Is that right?

4 A. (No verbal response).

5 Q. Let me -- I just have a few more things.
6 If -- did you understand Judge Dennis to say
7 that the law never requires a juror to vote for
8 the death penalty. Did you understand that?

9 A. Yes, sir.

10 Q. And the Judge would never order a juror or
11 a jury to vote for the death penalty. It's
12 always that juror's own choice given the
13 evidence. Do you understand that?

14 A. Yes, sir.

15 Q. One of the last things that I think Judge
16 Dennis told you is that a jury can give a life
17 without parole sentence for any reason or for
18 no reason, or for a simple act of mercy. You
19 understand that, don't you?

20 A. Yes, sir.

21 Q. You could follow that instruction?

22 A. Yes, sir.

23 Q. Okay. One more thing. What the law says
24 about that is that each juror's choice of
25 penalty, including life without parole, is an

1 individualized and reasoned moral judgment.

2 Can you accept that?

3 A. Yes, sir.

4 Q. And after you'd heard all the evidence and
5 all the circumstances, listened to Judge
6 Dennis' instructions on the law and you'd
7 debated it and discussed it with your fellow
8 jurors but you'd come to your own reasoned and
9 moral judgment as the penalty, including
10 whether that was life without parole or the
11 death sentence, if eleven jurors were going one
12 way and you had made your -- after you had
13 heard all the evidence and the instruction on
14 the law and discussed it with them, if eleven
15 were going one way and you were going one way
16 all by yourself, but you'd made that moral,
17 individualized choice, in your heart of hearts
18 you had the verdict that was right for you as
19 the penalty, could you stand your ground for
20 that verdict?

21 A. Yes, sir.

22 Q. You wouldn't just give it up and say, 'You
23 know what? It's late. I know we're here late
24 but I'm hungry and I want to go home.' You
25 wouldn't just give in to go along to get along?

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.

1306

1 A. No.

2 Q. By that same token, you would want those
3 other jurors to respect your vote?

4 A. Yes, sir.

5 Q. And you would respect theirs?

6 A. Yes, sir.

7 MR. BLOOM: Thank you very much,
8 ma'am.

9 THE COURT: Solicitor?

10 SOLICITOR WILSON: Thank you, Your
11 Honor.

12 THE COURT: Yes, ma'am.

13 VOIR DIRE EXAMINATION

14 BY SOLICITOR WILSON:

15 Q. Ms. Grant, I'm Scarlet Wilson. How are
16 you?

17 A. I'm fine.

18 Q. I know how it feels to go last, I'm having
19 to go last here, too. This is Bruce Durant
20 and Rutledge Durant and we're the prosecutors
21 in the case, so we will be the ones presenting
22 evidence when the trial gets started. I have
23 just a few questions to ask of you. I'm sorry.
24 Do you know Denode Heyward who lives out in
25 Hollywood, too?

- 1 A. Yes, ma'am.
- 2 Q. How long have you known him?
- 3 A. We went to high-school together.
- 4 Q. Did you see him here at the courthouse?
- 5 A. Yes, ma'am.
- 6 Q. Have you'all had a chance to talk since
- 7 you'all have been here?
- 8 A. No, ma'am.
- 9 Q. Did you'all ride in together?
- 10 A. No, ma'am.
- 11 Q. And you haven't had any discussions with
- 12 him about this case at all?
- 13 A. No, ma'am.
- 14 Q. Would you consider him a friend?
- 15 A. Yes, ma'am.
- 16 Q. I noticed when you filled out your
- 17 questionnaire -- did you send this in in
- 18 advance or did you have to fill this out here?
- 19 I can't remember.
- 20 A. I sent it in in advance.
- 21 Q. Okay. Thank you. Not everybody did, so
- 22 we were just getting some as we've been going
- 23 along. I notice that you skipped the question
- 24 on the death penalty. Can you tell me why you
- 25 skipped it?

1 A. (No verbal response).

2 Q. Did you mean to skip it?

3 A. (No verbal response).

4 Q. Well, tell me in your own words, -- you've
5 answered a lot of yes and no questions, but in
6 your words how you feel about the death penalty
7 and how you feel about life without parole.

8 A. (No verbal response).

9 Q. There are not -- this isn't like a pop
10 quiz, there are no "right" answers, I just want
11 to get your thoughts on it.

12 A. (Pause) --

13 Q. Are you okay?

14 A. (No verbal response).

15 THE COURT: Can you answer the
16 question, ma'am?

17 JUROR NUMBER 364: I haven't thought
18 a lot about it.

19 EXAMINATION CONTINUED

20 BY SOLICITOR WILSON:

21 Q. I'm just wondering how you feel about it,
22 your thoughts about it?

23 A. (No verbal response).

24 THE COURT: Do you understand the
25 question?

VOLUME FOUR 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.

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1 JUROR NUMBER 364: Yes, sir.

2 THE COURT: You need ---

3 SOLICITOR WILSON: Take your time.

4 THE COURT: Take your time but you
5 need to try to answer the question, please.

6 JUROR NUMBER 364: (No verbal
7 response).

8 THE COURT: Ms. Grant, is there some
9 reason you are not answering the question?

10 JUROR NUMBER 364: No, sir.

11 THE COURT: Then please answer the
12 question?

13 JUROR NUMBER 364: (Pause). -- you're
14 asking what I think about the death penalty?

15 SOLICITOR WILSON: What are your
16 personal thoughts about it?

17 JUROR NUMBER 364: I don't have any
18 thoughts -- (pause).

19 SOLICITOR WILSON: You don't have any
20 opinions on it?

21 JUROR NUMBER 364: (No verbal
22 response).

23 SOLICITOR WILSON: Your Honor, I have
24 a Motion.

25 THE COURT: Okay. Ma'am, I am going

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1 to ask you to step out just for a few moments,
2 please. We will be with you in just a moment.

3 (JUROR NUMBER 364 EXITS COURTROOM)

4 THE COURT: Solicitor?

5 SOLICITOR WILSON: Your Honor, I
6 move that this juror be disqualified. She
7 clearly, clearly was struggling. She's not
8 answering the question. I think it's obvious
9 by her body language, by her movements, by the
10 length of delay that she has obvious problems
11 with the death penalty, that she couldn't
12 handle it. I don't think that she is
13 qualified. I understand that -- I know that
14 she equivocated once with you when you were
15 talking and I understand that she answered all
16 the questions with Mr. Bloom but I think in the
17 totality of her answers that she is not
18 qualified as a juror.

19 THE COURT: Do you wish to be heard?

20 MR. BLOOM: Your Honor, at the end
21 she said, "I don't have any thoughts about it."
22 The solicitor's argument assumes a lot that is
23 not there. Many of these jurors have been
24 nervous, they've not been through this process
25 before. She's not indicated anywhere on her

1 questionnaire or in her responses that she has
2 a position one way or another.

3 She hesitated with me and I've simply
4 asked her, 'Have you thought much about it?'
5 and she said 'no.' I think part of what she is
6 struggling with is that she thinks that maybe
7 she is supposed to have an opinion. She's a
8 young person. I see from the questionnaire
9 that she is twenty-five. As it happens with
10 many of the young people that we have, they
11 haven't given much thought about it.

12 Like I said, at the very end she said
13 "I don't have any thoughts about it."

14 She could be intimidated by the
15 process, thinking that she is supposed to have
16 an opinion when she doesn't have one.

17 THE COURT: Response?

18 SOLICITOR WILSON: Judge, I think --
19 we all watched her as she sat there. Her body
20 language was clear. I realize that she said
21 that she didn't have a thought on it. It was
22 clear that she was struggling. I just don't
23 think that she is qualified in light of what
24 happened here.

25 THE COURT: Well, I don't quarrel

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1 with the fact that she was struggling. What I
2 guess my concern is -- I think this whole thing
3 is somewhat intimidating.

4 SOLICITOR WILSON: Sure.

5 THE COURT: I think when she came in
6 that she was -- she was basically inaudible at
7 first. I think that she is just scared to
8 death. I think that she didn't have an answer,
9 that she was worried that she didn't have an
10 answer. I think it was a very fair question.
11 I don't think that there was anything
12 inappropriate about your question. I think
13 when she said that she understood the question
14 -- my first thought was that she's being
15 defiant and not going to respond. I guess
16 that's the 'father' part of me, but then as I
17 watched her I don't think that was it at all.
18 I just don't think that she knew the answer to
19 the question and I don't think -- I don't think
20 that it implies that she is necessarily opposed
21 to it, I just don't think that she has an
22 answer.

23 SOLICITOR WILSON: Coupled with -- my
24 concern about that is that she kept ---

25 THE COURT: I don't quarrel that

1. there are a jillion justifiable reasons for
2 saying 'I think I am going to exercise my
3 peremptory challenge and excuse this person.'

4 I just -- I look at -- I first of all
5 want to say, because I think the court has
6 recognized that sometimes where the education
7 background is simply -- in that, I've even
8 found that in this particular case, so I am not
9 afraid to do that. But I have a person who
10 finished the twelfth grade and she has a job,
11 she works a Returns desk in customer service,
12 takes payments and answers the phone, so it's
13 something that she is capable of thinking. I
14 think the person -- I appreciate but I think
15 she's answered the question. I think she is
16 one -- maybe one of those ones -- I know Mr.
17 Bloom has probably got some that we've
18 qualified, that I've got a feeling what is
19 going to happen when they come up, so I think
20 this is one of those ones -- unless you have
21 something else, Solicitor, I would have to
22 respectfully acknowledge the Motion but I'd
23 have to ---

24 SOLICITOR WILSON: I do have
25 another question.

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1 THE COURT: All right, let's bring
2 her back in.

3 (JUROR NUMBER 364 ENTERS COURTROOM)

4 THE COURT: Thank you so much, Ms.
5 Grant. This process has its own kind of
6 direction some times. Hate to delay you ---

7 SOLICITOR WILSON: I'm sorry this is
8 taking so long. Are you ready to get out of
9 here?

10 JUROR NUMBER 364: (No verbal
11 response).

12 THE COURT: Can you answer for us?

13 JUROR NUMBER 364: "Yes."

14 SOLICITOR WILSON: We are, too.
15 We've been at this for quite a while.

16 EXAMINATION CONTINUED

17 BY SOLICITOR WILSON:

18 Q. I asked you your opinion about the death
19 penalty and you said that you don't have an
20 opinion, one way or the other?

21 A. (No verbal response).

22 THE COURT: You need to answer with
23 words, please. Ms. Grant, I need for you to
24 speak into that mic so that this lovely lady
25 can hear you. We need to get your answers in

1 verbal responses. Okay?

2 JUROR NUMBER 364: (Affirmative nod).

3 No, I don't.

4 EXAMINATION CONTINUED

5 BY SOLICITOR WILSON:

6 Q. How about life without parole, tell me
7 your thoughts about life without parole.

8 A. (No verbal response).

9 Q. Do you have any thoughts about that?

10 A. No, I don't.

11 Q. In comparing the death penalty or life
12 without parole, you understand that some people
13 feel like the death penalty is never
14 appropriate and some people feel like the death
15 penalty is always appropriate. Where would you
16 fall on that spectrum?

17 A. (No verbal response).

18 Q. Would you feel that it is always
19 appropriate or never appropriate?

20 A. The death penalty?

21 Q. Yes.

22 A. Never appropriate.

23 Q. Okay. If you had the choice, if you
24 always had the choice or the opinion of life
25 without parole, would that be the choice that

1 you would make?

2 A. (No verbal response).

3 Q. If you had that option instead of the
4 death penalty?

5 A. Yes, ma'am.

6 Q. So the reality is that you really couldn't
7 give meaningful consideration to the death
8 penalty if you have life without parole as a
9 choice; is that right?

10 A. Yes, ma'am.

11 Q. So in that sense the death penalty
12 wouldn't ever be appropriate for you to vote
13 for?

14 A. It depends on the situation, on what was
15 going on.

16 Q. Tell me how that works in light of what
17 you said that if you had life without parole as
18 an option -- and we're not talking about the
19 situation where life without parole isn't an
20 option. If you have life without parole as an
21 option, you said just a minute ago that you
22 would always pick that over the death penalty.
23 Right?

24 A. (No verbal response).

25 Q. Isn't that what you just told us?

1 A. Yes, ma'am.

2 Q. Was that the truth?

3 A. No, ma'am.

4 Q. So did you ---

5 A. No. I misunderstood your question.

6 Q. All right. Instead of me trying to put
7 words in your mouth, you just tell us. Tell us
8 what your thoughts are.

9 A. I mean it depends on the situation, like I
10 said, of what's going on at -- I can't make a
11 decision without knowing what's going on.

12 A. I believe that you said that you also --
13 that you work at Lowe's, is that right?

14 A. Yes, ma'am.

15 Q. There are several jurors on the panel that
16 also work at Lowe's. Have you met or do you
17 recognize any of them from your work?

18 A. No, ma'am.

19 Q. You don't know any of them?

20 A. (Negative gesture).

21 SOLICITOR WILSON: Beg the court's
22 indulgence.

23 THE COURT: Certainly.

24 EXAMINATION CONTINUED

25 BY SOLICITOR WILSON:

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1 Q. You mentioned just now that it would
2 depend on the circumstances whether or not you
3 felt that a death penalty would be appropriate.
4 Can you think of circumstances in your mind
5 where it would be?

6 A. (Pause) --- uh-uh.

7 Q. Are there no circumstances that you can
8 think of where ---

9 A. I can't think of any right offhand.

10 Q. You understand that if you were to vote
11 for the death penalty that you would have to
12 sign your name to the verdict ordering the
13 death penalty. Could you sign your name?

14 A. Yes, ma'am.

15 Q. No problems with that?

16 A. I could sign my name.

17 SOLICITOR WILSON: Thank you.

18 THE COURT: Anything else? Any
19 additional questions?

20 MR. BLOOM: Nothing further, Your
21 Honor.

22 THE COURT: Thank you very much.
23 We will be with you in just a moment if you
24 would step out again for just a few moments.
25 Thank you.

1 (JUROR NUMBER 364 EXITS COURTROOM)

2 THE COURT: All right. Solicitor?

3 SOLICITOR WILSON: She's sandbagging
4 but there's nothing that I can do about.

5 BRUCE DURANT: Your Honor, ---

6 SOLICITOR WILSON: I mean, it's clear.
7 Clear.

8 BRUCE DURANT: She's inconsistent.
9 Very ---

10 THE COURT: Oh, I don't quarrel with
11 that. What is your position?

12 SOLICITOR WILSON: I think she's
13 disqualified, Your Honor.

14 THE COURT: How do I, in fairness,
15 intelligently, when somebody says -- what
16 concerns me here is, really, now -- it really
17 goes into the education. How can somebody
18 evaluate something when they can't even tell
19 you what it means to them? I mean, what is
20 life imprisonment without the possibility of
21 parole? I mean, how does she assess that when
22 she can't even respond to that? I guess that
23 is my first question.

24 MR. BLOOM: Judge, I would go back
25 to your initial observation that she clearly is

1 nervous, scared, intimidated by this process.
2 She's never experienced anything like it.
3 That's obvious. She's never been in a witness
4 chair before, having questions posed to her
5 which she hasn't given much thought to.

6 THE COURT: Right. I don't quarrel
7 with that except that we're about to heighten
8 this thing. I mean, it doesn't get easier from
9 this point on. It gets more intimidating from
10 the standpoint that you're in a room with
11 twelve people who you don't know -- as you've
12 asked jurors, 'you would talk about your
13 rationale.' How is this person going to
14 effectively communicate when she won't even
15 communicate here.

16 MR. BLOOM: I think the difference
17 is that she's under a spotlight here. She's
18 the only one on the witness stand, having
19 questions posed to her by ---

20 THE COURT: All right. This is --
21 I am going to tell you what this is. This is
22 Cottrell ruling, Ruling #1. You're right but
23 I'm going to deny it and let her be on the jury
24 panel because I'm not going to have it come
25 back because somebody reads a cold record and

1 says 'No, she didn't equivocate any more than
2 anybody else that you let sit.' Thank you very
3 much, Solicitor.

4 SOLICITOR WILSON: I would ask that
5 you note your observation ---

6 THE COURT: I note that my
7 observation are -- I don't know the reason she
8 is not responsive. I really don't. I've said
9 that. I still -- I still think she -- I think
10 she did, just as the other jurors who have
11 responded and changed their mind and said,
12 'Well, I made a mistake.' I acknowledged that
13 on the record, I think. She did the same
14 thing.

15 I don't quarrel with you that what
16 I've seen thus far would lead me to conclude
17 that she is sandbagging. No question. But
18 what I've seen thus far leads me also to
19 conclude that she is a very uneducated,
20 frightened person who has responded to some
21 questions -- maybe she has been instructed,
22 maybe she's not but -- I don't think she -- I
23 think she responded too much information to be
24 totally prepared outside of this courtroom.
25 There was some suggestion that she had talked

1 to somebody and that's the only reason that I
2 mention that.

3 I appreciate your position, Solicitor.
4 This is one that I am going to say that they
5 are entitled to have the person on the jury
6 panel.

7 SOLICITOR WILSON: I hate to try your
8 patience, but in light of your observation and
9 also in light of Mr. Bloom's observation, I
10 think that's an additional reason outside of
11 any sort of thoughts or opinions on
12 sandbagging. If she is that frightened and
13 that intimidated, I think she is disqualified
14 as being a juror -- forgot about as a death
15 penalty ---

16 THE COURT: The bottom line is that
17 the problem that I have -- and I started to do
18 that, for that very reason, except for one
19 thing. There's a world of difference from
20 sitting on that stand and sitting in the jury
21 room. I don't think that the Court is going to
22 allow me to make that leap of faith and say,
23 'Well, they won't be able to function in the
24 confines of the jury room.' So that's the
25 concern I have. I can see the Court of Appeals

1 saying, 'Nope, you can't make that call, Judge.
2 That's based on what?' I don't have anything
3 to base on it. Thank you.

4 Bring her in.

5 (JUROR NUMBER 364 ENTERS COURTROOM)

6 THE COURT: Thank you, Ms. Grant.

7 Thank you very much, and I appreciate your
8 patience. You've been found to be qualified to
9 be a member of the panel from which we will
10 select our jury.

11 That will take place Thursday morning
12 at 9:30 in this courtroom. I am going to ask
13 that you return Thursday morning by 9:30. When
14 you come back, you can take your seat in the
15 audience. We will select our jury. Please
16 understand once we select the jury, we will be
17 prepared to start trying the case, so be
18 prepared to stay for the day if need be because
19 we will begin the trial. So be prepared to
20 stay with us if you're selected.

21 Until then and until you have been
22 dismissed from this case, please remember that
23 you still are not at liberty to discuss this
24 case with anyone or permit anyone to talk with
25 you about it. Also, please continue not to

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1 watch any news programs about it or read any
2 news accounts. We'll see you Thursday morning.

3 JUROR NUMBER 364: Thursday?

4 THE COURT: Yes, ma'am, just come to
5 this courtroom and take a seat in the audience.
6 We'll see you then.

7 JUROR NUMBER 364: Okay.

8 THE COURT: You are excused and,
9 again, thank you for your patience.

10 (JUROR NUMBER 364 EXITS COURTROOM)

11 THE COURT: All right, I'll see you
12 in the morning at 9:30.

13 (COURT IN RECESS)

14 (TRANSCRIPT CONTINUED NEXT PAGE)

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1 Good morning, Mr. Dickerson. You mentioned
2 that there is a matter that you need to address
3 before we bring in the juror?

4 MR. BLOOM: Yes, sir, there are two
5 different things.

6 THE COURT: Sure.

7 MR. BLOOM: One, Mr. Carroll and I
8 have of course divided up certain duties and we
9 have decided, along with discussion with Mr.
10 Dickerson, that Mr. Carroll is going to be
11 absent this morning for most of the remaining
12 voir dire. He has some duties to attend to in
13 this case, to prepare for the trial starting
14 tomorrow.

15 THE COURT: All right.

16 MR. BLOOM: It's with Mr.
17 Dickerson's consent. He and -- Mr. Dickerson
18 is aware that he is entitled to two attorneys
19 at all times, including all juror review, but
20 Mr. Carroll and I discussed that he needs to
21 attend to some other duties in this case and
22 that is with Mr. Dickerson's consent.

23 THE COURT: Is that correct, Mr.
24 Dickerson?

25 DEFENDANT: Yes, sir.

1 THE COURT: And you have had an
2 opportunity to discuss that fully with your
3 lawyers?

4 DEFENDANT: Yes, sir.

5 THE COURT: And you are comfortable
6 with Mr. Bloom handling this morning on your
7 behalf?

8 DEFENDANT: Yes, sir.

9 THE COURT: Very well. Mr. Carroll,
10 you will be excused, sir.

11 MR. CARROLL: Thank you, Your Honor.

12 THE COURT: You said you have two
13 matters?

14 MR. BLOOM: Yes, sir, it's also came
15 to our attention that Juror Elaine Prioleau,
16 Your Honor, Number 247, from yesterday, ---

17 THE COURT: Yes, sir.

18 MR. BLOOM: It came to our attention
19 after voir dire that there may be some
20 connection between her and the decedent's
21 family, the Roper family. I don't know if ---

22 THE COURT: Can you help me as to
23 what the connection is?

24 MR. BLOOM: On information and
25 belief that maybe her husband may know the

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1 Ropers or that there may be some connection.

2 We are just asking if the Solicitor's office
3 has any information in that regard, that ---

4 SOLICITOR WILSON: I've asked and they
5 do not.

6 THE COURT: I would be happy to ask
7 Ms. Prioleau that specifically if you would
8 like for me to do so when we return tomorrow.

9 MR. BLOOM: Thank you, Your Honor.

10 THE COURT: Okay.

11 MR. BLOOM: That's all.

12 THE COURT: Her husband, you
13 believe?

14 MR. BLOOM: (Affirmative nod).

15 THE COURT: And, Solicitor, you are
16 not aware of?

17 SOLICITOR WILSON: I saw that your
18 husband worked with an ILA member and so does
19 Mr. Aven Roper, so I inquired of him about that
20 and he wasn't familiar with him.

21 MR. BLOOM: We are satisfied with
22 that, Your Honor.

23 THE COURT: So I don't need to
24 inquire of the juror, then?

25 MR. BLOOM: Your Honor, out of an

1 abundance of caution, I think I would ask just
2 a simple question or two tomorrow.

3 THE COURT: I will do that. We will
4 bring her forward and do it here rather than to
5 do it openly. We'll do it in front of the
6 court reporter, if that's all right, rather
7 than to do it in front of the entire panel.

8 MR. BLOOM: Yes, sir, that's fine.
9 Thank you.

10 THE COURT: Thank you.

11 MR. BLOOM: That's all that we have.

12 THE COURT: Thank you, Mr. Bloom, I
13 appreciate it. Is the State ready to proceed?

14 BRUCE DURANT: Yes, sir, Your
15 Honor.

16 THE COURT: And the Defendant is
17 ready to proceed, Mr. Bloom?

18 MR. BLOOM: Yes, sir.

19 THE COURT: Thank you very much.

20 Let's bring in our first juror this morning,
21 Juror Number 234.

22 SOLICITOR WILSON: Judge, before we
23 bring the witness (sic) in, I'm told that the
24 defendant's aunt may have met Ms. Prioleau at
25 an office function or something like that. She

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1 doesn't know her, is not friendly with her but
2 may have met her at some point in the past.

3 THE COURT: What is the victim's
4 aunt's name?

5 SOLICITOR WILSON: Vidalia Chapman.

6 THE COURT: I'm sorry?

7 SOLICITOR WILSON: Vidalia Chapman.

8 She is not a potential witness, Your Honor.

9 THE COURT: Thank you.

10 (JUROR NUMBER 234 ENTERS COURTROOM)

11 THE COURT: Good morning, Mr. Page.

12 How are you, sir?

13 JUROR NUMBER 234: I'm good.

14 THE COURT: That's good. If you
15 will sit and pull yourself up so that you can
16 speak into that mic comfortably.

17 JUROR NUMBER 234: Yes, sir.

18 THE COURT: We appreciate you being
19 here this morning. We are going to continue
20 the process that we started on Friday. I have
21 questions that I need to ask of you, the
22 attorneys will have some questions that they
23 probably will need to ask, and -- this really
24 is a continuation and, as you'll recall, those
25 questions really have no correct answers. They

1 are designed to help all of us, you included,
2 make a determination as to whether you can be a
3 fair and impartial juror.

4 The only thing that we ask is that you
5 respond truthfully and candidly and that you
6 answer the questions completely. I am
7 confident that you will do that. Are you
8 willing to do that?

9 JUROR NUMBER 234: Yes, sir.

10 THE COURT: I would remind you, sir,
11 that you are still under oath in this matter.
12 Okay?

13 JUROR NUMBER 234: Okay.

14 MICHAEL J. PAGE, being duly sworn
15 to tell the truth, the whole truth and nothing
16 but the truth, testified, as follows:

17 VOIR DIRE EXAMINATION

18 BY THE COURT:

19 Q. Mr. Page, since we were together on
20 Friday, have you talked with anyone, permitted
21 anyone to talk with you, watched any news
22 programs or read any news articles about this
23 trial?

24 A. No, I told somebody that they were trying
25 to put me on a death penalty case. But, no, I

1 haven't.

2 Q. How much conversation did you have about
3 the case?

4 A. No, nothing. Nothing at all. I told them
5 that I didn't know anything about it.

6 Q. In your words "they're trying to put me on
7 a death penalty case", ---

8 A. Right.

9 Q. What do you mean by that?

10 A. Well, picking the jury.

11 Q. All right. Does that create a problem for
12 you?

13 A. Well, I'm just worried because I've got a
14 big mouth and I don't want to mess up y'all's
15 case. I mean, I'm just worried to death that I
16 will have everybody mad at me.

17 Q. I appreciate that. That's something that
18 we will certainly explore but the good thing
19 about it is that the jury, except for when they
20 are in the jury room, and that's up to you and
21 I assume you -- you've been working in your
22 life, it appears.

23 A. Yes, sir.

24 Q. In fact, as I understand, you're an
25 auctioneer and you have your own business, an

1 antique business?

2 A. Yes. I am a licensed auctioneer, I'm also
3 a commercial pilot and own Hungryneck Antique
4 Mall in Mount Pleasant, and my family owns
5 Hayden's Meat Market.

6 Q. So you understand how to -- the need to
7 get along with people?

8 A. I try, (affirmative nod).

9 Q. Well, the good thing about it is that once
10 you're selected, if you're selected, you'll be
11 sitting there listening more than you will be
12 talking. Okay?

13 A. That's good.

14 Q. All right, sir. I need to ask you -- I
15 identified a number of persons Friday and I
16 failed to mention two names that I need to ask
17 you about. Are you related by blood or
18 marriage, have any business dealings with or
19 socially or casually acquainted with or have
20 any dealings with Jeff Osborne or Matt Casey?

21 A. I've heard the name Osborne, a guy that is
22 in the car business in Greenville. I've heard
23 of a lot of Osbornes.

24 Q. But not somebody locally?

25 A. I don't think so; no, sir.

1 Q. Assuming for just a moment that if the
2 person you know in Greenville, and I don't
3 think that this person has ever been in
4 Greenville or in the car business, so we -- the
5 fact that you know somebody named Osborne ---

6 A. Right.

7 Q. --- wouldn't affect you?

8 A. No, sir.

9 Q. And if a person by the name of Jeff
10 Osborne testifies or is involved in this case,
11 would you be able to consider his testimony the
12 same as any witness?

13 A. Yes, sir, I believe so.

14 Q. And would you weigh his testimony,
15 consider his testimony, the same notwithstanding
16 that you may know somebody by the name of
17 Osborne?

18 A. Yes, sir.

19 Q. Thank you. You were given a sheet when
20 you came in this morning that set forth three
21 types of jurors. Have you had an opportunity
22 to review that list?

23 A. Yes, sir, I've read it several times.

24 Q. Okay. Of the three types shown, which one
25 most accurately depicts you?

1 A. I guess I'd have to fall under number
2 three.

3 Q. When you say that you guess, you have some
4 doubt about where you ---

5 A. No, I don't really. I guess I would fall
6 under number three, as far as -- (pause).

7 Q. Okay. Number three is basically the type
8 of juror, as I understand that basically in a
9 situation where the jury has the responsibility
10 of determining the appropriate punishment for
11 murder, that type of juror is a juror that says
12 'I wouldn't know what the appropriate sentence
13 would be until I'd heard everything.'

14 A. I would think, (affirmative nod); yes,
15 sir.

16 Q. And that there are circumstances in my
17 mind that may justify a death sentence and
18 there are circumstances that while I could have
19 imposed a death sentence, I would choose to
20 impose life imprisonment instead?

21 A. I've never really thought about this until
22 this came up but I just -- I've been real
23 worried, like I said on my questionnaire that
24 I'm not sure about the death penalty -- on that
25 question that you'all asked me. I just don't,

1 I'd hate to be responsible to decide somebody's
2 life.

3 Q. I understand that. I understand that you
4 say that you'd hate to be responsible and I
5 understand that. That's a very human response.
6 My question is this, let's talk for a moment
7 and talk about the situation that sheet
8 presents. Okay?

9 A. Okay.

10 Q. At that point in time you would be a juror
11 in a case, a criminal dispute where murder was
12 the charge. Okay?

13 A. Okay.

14 Q. You will have finished one portion of that
15 proceeding, that is the first portion where the
16 State had the responsibility of proving that
17 charge beyond a reasonable doubt. Obviously
18 the jurors are now faced, those (number) three
19 jurors are faced with the decision, faced with
20 the next stage, they are going to have to make
21 a determination in accordance with the law and
22 the facts of whether to sentence that person to
23 life imprisonment or the death penalty. Do you
24 understand that?

25 A. Yes, sir.

1 Q. So the question I would ask you given your
2 -- and, as I stated, there are no correct
3 answers. Let me state to you again that we're
4 not asking you to feel guilty about anything
5 that you feel. You're entitled to your
6 beliefs. Nobody is challenging those beliefs.
7 The question is, as I told you on Friday when I
8 asked you some of the questions, are these
9 beliefs something that will impair or affect
10 your ability to be a juror, a judge with me.
11 That is -- because this is what you have to do:
12 as a juror, that juror that we are talking
13 about in this abstract case, has made a
14 commitment to all the parties and to the court
15 that they are willing to apply their common
16 sense, their sense of logic and reasoning
17 fairly as the appropriate time in analyzing
18 evidence. Evidence consists of testimony of
19 witnesses and exhibits and that's it. Making
20 a decision of what they believe to be the true
21 facts and then once making that decision taking
22 the law that the presiding judge gave to them
23 and applying that law fairly and impartially
24 notwithstanding their personal opinions or
25 feelings about something.

1 So what the jurors have said is simply
2 this, 'I can do the first thing. I can be that
3 judge.' And, 'I can set aside my strong
4 beliefs, my philosophies, my thoughts of what
5 the law should be or might be or could be and I
6 would take the law as the court gave it to me
7 and apply that law.' That's the question.

8 At that point, are you a type three juror?
9 And a type three juror says at that point,
10 'I've been through a trial' -- you've been
11 through the first part, you've heard
12 everything, you've determined this, you've
13 determined that that person who was accused of
14 murder was the person that committed the crime,
15 number one, no question about it, beyond a
16 reasonable doubt. Secondly you've
17 concluded that the crime that was committed,
18 the killing that was committed was a murder.
19 That's important because murder in this state
20 is the intentional killing of another with
21 malice. That means that it is not an accident,
22 it's not self-defense, it's not somebody
23 getting upset about something that they were
24 provoked into doing something, which would be
25 manslaughter in this state. In other states

1 it's called second and third degrees, varying
2 degrees. We don't have those in this state.

3 It's murder or manslaughter if someone is
4 killed ---

5 A. Yes, sir.

6 Q. --- or involuntary manslaughter. So it is
7 none of those, it's not manslaughter, not
8 involuntary manslaughter, it's murder. They
9 went out and they wanted to kill somebody and
10 they killed them, it was a malicious killing.
11 They were motivated by evil thoughts, an evil
12 spirit.

13 That is what has been decided at this
14 point. At this point, if you're on that jury,
15 do you have in your mind the appropriate
16 sentence? Because the important thing to do
17 is, before you started, the court was going to
18 say, 'Now, you're going to hear evidence in the
19 second phase when we talk about the appropriate
20 sentence, what sentence is appropriate, you're
21 going to hear additional evidence, evidence
22 that you did not hear in the first phase, that
23 will assist you in making that decision.'

24 The question is, just because you've
25 convicted him of murder do you have a sentence

1 in your mind?

2 A. No, sir.

3 Q. Okay. The second phase, you would deal
4 with something, because it's very important
5 that you keep that open mind -- for a number of
6 reasons.

7 Number one, because that the -- that's one
8 of the critical parts about being a juror, that
9 you have an open mind. Remember I asked you --
10 for instance, just for a second, and Mr.
11 Dickerson of course is accused of some criminal
12 offenses, we talked about it on Friday.

13 A. (Affirmative nod).

14 Q. You and I talked about it and I told you
15 that one principle of law that applies is that
16 he is presumed innocent. I asked if anybody
17 had any problem with that principle of law and
18 you did not have a problem with that?

19 A. (Negative gesture).

20 Q. So as he sits here this morning, do you
21 see him as innocent?

22 A. I don't know the man but, yeah, I would --
23 yes, sir, I'd look at him as innocent until I
24 hear all the evidence. Yes, sir.

25 Q. Well, the law goes even further than that.

1 It's not only that you hear all the evidence
2 but that after deliberating a case and the
3 court has told you to start, you have to
4 maintain that position that he is. That's what
5 it means, an active presumption.

6 It means that mentally we have to actively
7 presume that until the State persuades you
8 beyond a reasonable doubt that he is guilty.
9 That would come only after you've had a chance
10 to hear all the evidence, to receive the law
11 and to deliberate. That's what I am talking
12 about, keeping that open mind.

13 You would do that if you were on a jury?

14 A. Yes, sir, I believe I could do that.

15 Q. Okay. Given that, then that jury that
16 we're talking about here, that's on that sheet
17 that we've been discussing, that jury has made
18 that same commitment, that they will keep that
19 open mind. What I heard you just say is, 'yes,
20 I can keep an open mind.'

21 That's important because, in this state
22 typically in a murder situation the jury is not
23 involved in sentencing. Usually the jury tries
24 the first part and determines whether the State
25 meets its burden of proof. If they do, if they

1 convict him of murder, then the trial judge,
2 the presiding judge imposes a sentence.

3 That typically -- the maximum sentence
4 that can typically be imposed in a murder,
5 there are those rare situations where it's
6 something else, but no need to discuss that
7 because that's really not applicable, is --
8 the most that the trial judge can give, the
9 strongest, the harshest sentence, is life
10 imprisonment without the possibility of parole.
11 We are not bound to that, there's a lesser
12 sentence that we can give, but that's the most
13 that we can give for the offense of murder. So
14 a judge can't even impose a death sentence in
15 that setting.

16 What the law says is that there are
17 circumstances surrounding murders, that the
18 statutes provide that if certain aggravating
19 circumstances are present beyond a reasonable
20 doubt then a jury may consider imposing a death
21 sentence. So the second phase, one of the
22 primary reasons in addition to receiving other
23 evidence that will be assisting you in imposing
24 a sentence, the first thing that a jury has to
25 impose, to consider, is whether or not there's

1 an aggravating circumstance present. The State
2 has to prove that beyond a reasonable doubt.
3 So that's a very important part of that second
4 phase. Again, you can understand why it is so
5 important that you not have a predetermined
6 sentence. If there's no aggravating
7 circumstance, you can't even consider a death
8 sentence. The only sentence that I -- I would
9 instruct you, if I were the presiding judge --
10 the only sentence that you can impose is life
11 without parole. Would you have any problem
12 following that instruction?

13 A. No, sir.

14 Q. Okay. Let's go to the next step.

15 Assuming that that jury, of which you were a
16 member, after hearing all the evidence and after
17 receiving the law, decides 'yeah, the State's
18 established an aggravating circumstance'.

19 There are a number of them and I give you an
20 example of some. The State has provided that
21 where -- if there's the killing of a police
22 officer, the killing of a child. Those are two
23 situations. There are others. Those are
24 considered aggravating circumstances, which if
25 the jury finds beyond a reasonable doubt then

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1 they can consider imposing a death sentence
2 from that murder. But you will have determined
3 that there is at least one, at least one of the
4 aggravating circumstances is present.

5 You are going to hear other evidence about
6 the appropriate sentence, that will assist a
7 jury in making its determination. One aspect
8 that you may hear is something called
9 "mitigating circumstances". Some of those are
10 statutory, meaning that there is a statute
11 setting forth things, and some are
12 nonstatutory.

13 Mitigating circumstances are equally
14 important for the jury to give consideration to
15 because the law says that if there are
16 mitigating circumstances in the evidence, a
17 juror has to be willing and must give serious
18 consideration, and truly consider that, those
19 mitigating circumstances. If they don't, then
20 obviously they're not being -- now they'd
21 obviously not be considering all the evidence.

22 Now, I am not saying that you have to vote
23 one way or the other because of them but you
24 have to be willing to seriously consider those.
25 Mitigating circumstances, there are a number of

1 those, too, provided by statute. Some of them
2 are the upbringing of the defendant when he was
3 a child, what occurred during childhood,
4 sometimes child abuse and those types of things
5 may be evidence, may be germane to the issue,
6 substance abuse, addiction, mental health
7 issues, maybe there are some emotional problems
8 that a person had during their life. Those are
9 matters that the law recognizes.

10 While they don't excuse it, they are
11 factors that the jury may consider in making --
12 while the crime has been elevated because of
13 the aggravating circumstances, mitigating
14 circumstances tend to lessen it or it gives you
15 some explanation. That's important, obviously,
16 in fashioning a sentence.

17 Could you give consideration and would you
18 give consideration to any mitigating
19 circumstances?

20 A. Yes, sir, I believe that I could. Yes,
21 sir.

22 Q. All right. Another thing that I would
23 tell you in that trial and, of course, it
24 applies in this one, as well. Persons who
25 are accused of committing criminal offenses

1 in this state or in this country are not
2 required to prove anything at all. They don't
3 have to present any evidence, they don't have
4 to prove their innocence, they don't even have
5 to testify. If they choose not to, I would
6 instruct the jury that they could not use that
7 against that person in any way. Do you have
8 any problem with that principle of law?

9 A. No, sir, that would probably be a good
10 thing.

11 Q. Well, you should never look, in this case
12 that we are talking about, the judge would have
13 instructed you and you cannot look to the
14 defendant to prove anything, in either phase,
15 first or second phase. For instance, if the
16 defendant -- if there weren't any mitigating
17 circumstances, no testimony from the defendant
18 in the second phase, the law says that you
19 can't consider that against him. Do you have
20 any problem following that instruction?

21 A. No, sir.

22 Q. Because the State has the burden of proof.

23 A. Yes, sir.

24 Q. Because that's important for another
25 reason. A part of the charge that I would say

1 to you, while we have the aggravating
2 circumstance which entitles you now as a juror
3 to consider the death sentence, and you could
4 consider mitigating circumstances as a reason
5 for not imposing the death sentence for
6 instance, you also -- I would tell you
7 something else. You can impose -- even though
8 you have the right to impose a death sentence,
9 the jury has the right to impose life
10 imprisonment without the possibility of parole
11 for no reason whatsoever, if you just choose to
12 do that. So you can begin to see again why it
13 is so critical that you have that open mind.
14 You could be able to consider that, as well?
15 A. Yes, sir, I do believe that I can.
16 Q. Now, the question, it comes to that part
17 and this is where we get to the point of your
18 concern. You're now at this point in this case
19 that we've been talking about that's on that
20 sheet, you're on this jury, an aggravating
21 circumstance has been established, there may be
22 mitigating circumstances, there may not be, but
23 you now have the option. You can impose life
24 imprisonment without the possibility of parole
25 or you can impose a death sentence.

1 The question that I have for you, in your
2 mind, and I am not asking you to tell me what
3 those circumstances are, but are there
4 circumstances that if you were in that case, if
5 those circumstances existed that you could --
6 you could say, 'Well, I have a chance -- I
7 could impose one or the other. I believe in
8 this case the most appropriate sentence is
9 death.' Could you do that?

10 A. I believe that I could, sir. But like I
11 said, I would not want to.

12 Q. I didn't ask you that.

13 A. Yes, sir, I could.

14 Q. The question is -- and that's why I -- I'm
15 not being unsympathetic to you. I'm asking you
16 -- because, remember what I said. I said the
17 jury has made a commitment that notwithstanding
18 their personal feelings they are willing to set
19 those aside and follow the law and the law at
20 that ---

21 A. Yes, sir.

22 Q. --- point would say that you have that
23 option.

24 A. Yes, sir.

25 Q. So you could comply with the judge's

1 instruction?

2 A. Yes, sir.

3 Q. That would mean, if you chose the death
4 sentence, that you would have to sign a form
5 saying that that is the sentence; as one of the
6 jurors, you could perform that function?

7 A. I will say again that I would not like to
8 but, yes, sir, I think I could.

9 Q. Okay. Likewise -- likewise in that
10 situation there are circumstances in your mind,
11 and I am not asking you to tell me what they
12 are, that while you could have imposed a death
13 sentence you would chose not to. Is that
14 correct? In other words, you would choose to
15 impose life without the possibility of parole?

16 A. Not necessarily. No. It's getting
17 confused now. If we've crossed this point of
18 -- in my mind that I wanted to ---

19 Q. No, no, I'm not asking you in a case where
20 you would think absolutely these circumstances
21 warrant a death sentence. I am not saying that
22 situation. I am saying because -- we don't
23 know what the circumstances are in this case.

24 A. Right, right.

25 Q. I am just asking you whether there are

1. circumstances that while you may be able to,
2. while you may be entitled to impose a death
3. sentence, you would chose not to -- for a
4. murder.

5. Let me say something else that I failed to
6. mention. The court is never going to tell you
7. that you have to do one or the other.

8. A. Right.

9. Q. Except that if you don't find an
10. aggravating circumstance, then you have to
11. return life imprisonment without the
12. possibility of parole. But if you have the
13. option, that's your choice. You get to pick.

14. A. Right.

15. Q. My question is, if you get to that point,
16. is it your feeling that the death sentence
17. would be the only sentence that you would
18. impose?

19. A. Well, I would like to hear all the
20. evidence. Right now I ---

21. Q. I understand the ---

22. A. I could impose the death sentence, yes,
23. sir.

24. Q. I understand that, but could you also
25. equally, if you had the right to impose a death

1 sentence, decide not to impose the death
2 sentence but rather depend on life imprisonment
3 without the possibility of parole?

4 A. Yes, sir.

5 Q. And you could pick between the two?

6 A. Yes, sir.

7 Q. As to which one you think was most
8 appropriate?

9 A. Right.

10 Q. Because, as I stated, just because those
11 aggravating circumstances exist that doesn't
12 mean that you have to impose the death
13 sentence. You still have the right to impose
14 life imprisonment. Do you understand that?

15 A. Yes, sir.

16 Q. But it is my understanding that just
17 because aggravating circumstances have been
18 established, that doesn't automatically mean in
19 every situation that you're going to impose a
20 death sentence; is that correct?

21 A. Right.

22 Q. Okay. I just want to be clear on that. I
23 thought that's what you said.

24 A. Right. I just would like to hear ---

25 Q. Oh, I understand that. Nobody is asking

1 you which way, because you don't know the
2 facts.

3 A. Right.

4 Q. What you said to start with is, 'I am a
5 type three juror, and I have to know the
6 facts.'

7 A. Right. Yes, sir.

8 Q. Now, let's focus just for a moment our
9 attention -- just with respect to this
10 particular case. We now have left this
11 hypothetical case.

12 A. Right.

13 Q. As I mentioned to you and you've already
14 stated, you see Mr. Dickerson as being innocent
15 of these charges.

16 A. (Affirmative nod).

17 Q. And you understand that that has to remain
18 until -- if you're on the jury, until you've
19 been instructed to make a decision otherwise.
20 Do you understand that?

21 A. Yes.

22 Q. You'd have no problem doing that?

23 A. No, sir.

24 Q. And as I understand, you believe that you
25 could at the appropriate time apply your common

1 sense, your sense of logic and reason in
2 analyzing the evidence and decide what you
3 believe to be the true facts?

4 A. I believe that I could, yes.

5 Q. You've heard nothing -- nothing that
6 you've heard about this case thus far would
7 give you any concern about your ability to do
8 that?

9 A. No, sir.

10 Q. Also, nothing that you've heard thus far
11 would give you any concern about your ability
12 to do what we talked about in the abstract
13 case; that is, whatever instruction that I give
14 -- if it is in any way in conflict with any
15 personal beliefs you have and I tell you that's
16 the law, you're willing to follow that law and
17 set aside your personal beliefs?

18 A. Yes, sir.

19 THE COURT: Thank you. Please
20 answer any questions that the attorneys may
21 have.

22 VOIR DIRE EXAMINATION

23 BY SOLICITOR WILSON:

24 Q. Good morning, Mr. Page. I'm Scarlet
25 Wilson, I'm the Solicitor here. This is Bruce

1 Durant and Rutledge Durant and the three of us
2 will be the ones prosecuting the case once we
3 get started presenting evidence.

4 Before that, I am going to ask some
5 questions to follow up on what the Judge asked
6 you, about some of your answers, and also some
7 of your answers to the questionnaire.

8 I know that you've answered a lot of 'yes'
9 and 'no' questions, but sort of in your own
10 words, tell me your thoughts on the death
11 penalty and on life without parole.

12 A. I hadn't ever thought about it until this
13 had come up.

14 Q. Really?

15 A. Really. I hadn't. I really hadn't
16 thought about it.

17 Q. Have you been thinking about it since you
18 got the questionnaire or since Friday when we
19 were all here together?

20 A. Yeah.

21 Q. And what did you come up with?

22 A. Like I've said several times already, I
23 don't want to do it.

24 Q. Right. Well, hopefully most people don't
25 want to do it.

1 A. Right.

2 Q. If -- you know, there are some people who
3 think always 'guilty, death penalty' and there
4 some people who think 'never, it's just not
5 right.'

6 A. No, I'm not either way.

7 Q. Okay. You think you are probably about in
8 the middle?

9 A. I think so. Yes, ma'am.

10 Q. And life without parole, do you think
11 that's a pretty severe ---

12 A. That's harsh. Yes, ma'am.

13 Q. And the Judge went over with you sort of
14 the two-phase process. The State again would
15 have to prove guilt beyond a reasonable doubt
16 first.

17 A. As far as guilty or not guilty,
18 (affirmative nod).

19 Q. Right. Then the second phase would start.
20 Then you, as a juror, if you were on a case or
21 on any death penalty case would have to
22 continue to hold us to our burden of proving
23 that aggravators beyond a reasonable doubt.
24 We just have to prove one but if we proved it
25 beyond a reasonable doubt you could then think

1 about the death penalty and consider it?

2 A. I would consider it.

3 Q. Okay. At that point, after we did that,
4 the defense would have an opportunity to
5 present things about the defendant that may
6 make you understand why -- understand why the
7 defendant acted the way that the defendant
8 acted or things about the crime that maybe
9 weren't relevant to the guilt phase but that
10 might shed some light on it. You wouldn't have
11 any problem listening to that?

12 A. No, ma'am.

13 Q. Again, the key question is, even though --
14 we've just got to know that even though you
15 would consider it, are you saying, you know,
16 'yeah, I would consider it like I'd consider
17 flying to the moon' or you really would think
18 harder and realistic; that in some situations
19 you could sign your name to that death
20 sentence?

21 A. I could see giving a death sentence.

22 Q. Okay.

23 SOLICITOR WILSON: That's all that I
24 have, Your Honor. Thank you, Mr. Page.

25 THE COURT: Mr. Bloom?

1 VOIR DIRE EXAMINATION

2 BY MR. BLOOM:

3 Q. Good morning, Mr. Page. How are you
4 today?

5 A. Good morning, I'm fine.

6 Q. My name is Jeff Bloom. Along with Jeff
7 Bloom and, along with Andrew Carroll who is out
8 of the courtroom right now attending to other
9 duties, we represent William Dickerson. I just
10 have a few questions to follow up with you.

11 I am not going to repeat all the questions
12 that the Solicitor or the Judge asked you. I
13 did want to go back to one thing. The Judge
14 explained mitigating circumstances to you.

15 A. (Affirmative nod).

16 Q. Sometimes we use legal phrases and I just
17 want to make sure you can fully consider those
18 and give meaningful consideration to them.
19 Some of the things, when a jury comes to the
20 point where they are trying to decide between
21 one penalty or life without parole, are things
22 like how someone is raised as a child. Is that
23 something that you can give meaningful
24 consideration to, their upbringing?

25 A. Yes, sir. Yes, sir, I would.

1 Q. Okay. That is something that you'd be
2 interested in hearing as a juror?

3 A. I would think so. Yes, sir.

4 Q. The reason that I ask -- and there are
5 others, such as -- you know, drug addiction.
6 Is that something that you ---

7 MR. BLOOM: Are we starting to ---

8 THE COURT: We are. I've given him
9 examples. Thank you. Please move on.

10 MR. BLOOM: All right.

11 EXAMINATION CONTINUED

12 BY MR. BLOOM:

13 Q. The Judge listed those examples --
14 upbringing, drug addiction, mental health --
15 and what I asked you is that some jurors say,
16 'You know, I am just going to focus on what
17 happened at the time of the incident or the
18 facts of the crime. Anything that doesn't have
19 anything to do with the crime, I'm just not
20 interested in.' I am just trying to make sure
21 which group you're in.

22 A. I'm -- (sighs) -- I would weigh the
23 evidence. I would hear what brought things to
24 the way that they got there but, you know, the
25 crime is probably what we'd be talking about.

1 So, I don't know. I really don't know. I
2 mean, I'd have to be there, hear it all, hear
3 all the evidence.

4 Q. Okay. I guess what I'm asking is that you
5 wouldn't just stop in terms of looking at the
6 evidence of the crime itself. You would listen
7 to the judge's instruction, listen to anything
8 that came out?

9 A. Right.

10 Q. Because, as you said, some jurors just
11 don't want to hear how someone was raised or
12 how they ---

13 A. Right.

14 Q. You're not one of those jurors? You're
15 going to give meaningful consideration to that
16 type of evidence that may have nothing to do
17 with the crime itself?

18 A. Right. I would listen to it, yes.

19 Q. Of course, every juror is going to listen.
20 They're not going to sit there in the jury box
21 with their fingers in their ears. What Judge
22 Dennis asked you was if you could give
23 meaningful consideration to that type of
24 evidence.

25 A. Yes, sir, I would pay attention to what

1 was going on and I would try to put it into my
2 decision. Yes, sir.

3 Q. Okay. All right. The next thing that I
4 want to ask you is that Judge Dennis instructed
5 you that -- you understand that a death
6 sentence is never required?

7 A. Right, that's what I heard him say.

8 Q. The judge would never order you that if
9 you found this piece of evidence or that piece
10 of evidence that you'd have to vote for death.
11 It's totally your choice. Do you understand?

12 A. Right.

13 Q. Each juror's choice to vote for the
14 ultimate punishment or for life without parole.
15 Do you understand that?

16 A. Yes, sir.

17 Q. The law calls that an individualized,
18 reasoned moral judgment. Can you accept that?

19 A. Yes, sir.

20 Q. You could make your own individualized,
21 reasoned moral judgment including life without
22 parole?

23 A. Yes, sir. I believe that I can. Yes,
24 sir.

25 Q. If you were with eleven other jurors and

1 eleven jurors were voting -- well, let me back
2 up. After you'd heard all the evidence and all
3 the circumstances and Judge Dennis had charged
4 you on all the law and you had discussed and
5 debated it with all your fellow jurors,
6 listened to them they had listened to you, and
7 I think you've told us that you're pretty
8 vocal, ---

9 A. (Affirmative nod).

10 Q. But if you had come to your own
11 individualized, reasoned moral judgment and
12 eleven jurors were voting one way but you were
13 secure in your individualized, reasoned moral
14 judgment, would you stand your ground?

15 Would you stand your ground or would you
16 just say, 'You know what? I've got to get back
17 to work' or 'I'm hungry, it's late. I'm just
18 going to go along to get along.'

19 A. No, I would have to stand my ground if I
20 felt strongly about it. Yes, sir.

21 Q. All right. And you'd ask them to respect
22 your vote?

23 A. Right.

24 Q. And you would respect theirs?

25 A. I wish I would have to, (affirmative nod).

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1 MR. BLOOM: All right. Thank you
2 very much, sir.

3 JUROR NUMBER 234: Yes, sir.

4 THE COURT: Solicitor, any
5 additional questions?

6 SOLICITOR WILSON: No, sir.

7 THE COURT: Thank you very much, Mr.
8 Page. If you would step out just for a moment,
9 we will be with you momentarily.

10 (JUROR NUMBER 234 EXITS COURTROOM)

11 THE COURT: While I believe Mr. Page
12 has expressed some concerns about signing a
13 death sentence, I am convinced from listening
14 to him that he could carry out and follow the
15 charge. I find that he is qualified. Any
16 objection from the State?

17 SOLICITOR WILSON: No, sir.

18 THE COURT: Any objection from the
19 defendant?

20 MR. BLOOM: No, sir.

21 THE COURT: Thank you. Ask Mr. Page
22 to step in, please.

23 (JUROR NUMBER 234 ENTERS COURTROOM)

24 THE COURT: Mr. Page, we've found
25 that you're qualified to be a member of the

1 panel from which we will select a jury in this
2 case.

3 That process will take place tomorrow
4 morning at 9:30. We need for you to report
5 here to the courtroom, come directly to the
6 courtroom and take a seat in the audience.

7 It shouldn't take very long but you need to be
8 prepared when you come to stay the day in case
9 you're on the jury, because we will start
10 trying the case tomorrow, as well.

11 Please have a good rest of the day.
12 Until then and until you have been dismissed
13 from this case, please remember that you still
14 are not at liberty to discuss this case with
15 anyone or permit anyone to talk with you about
16 it. Also, please continue not to watch any
17 news programs about it or read any news
18 accounts. We'll see you in the morning.

19 JUROR NUMBER 234: Yes, sir.

20 (JUROR NUMBER 234 EXITS COURTROOM)

21 THE COURT: Juror Number 7 (sic),
22 please.

23 (JUROR NUMBER 8 ENTERS COURTROOM)

24 THE COURT: Good morning. How are
25 you?

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1 JUROR NUMBER 8: Good. How are you?

2 THE COURT: I'm great. If you will
3 sit and pull yourself up so that you can speak
4 into that mic comfortably.

5 We are going to continue the process
6 that we started on Friday. I have some
7 questions that I need to ask of you and the
8 attorneys will probably have some questions,
9 as well. All that we ask is that, just as we
10 did on Friday, is that you truthfully respond
11 to those questions and that you be candid in
12 your responses and completely answer the
13 questions.

14 Please understand that nothing that
15 we are asking you is -- first of all, there
16 are no "correct" answers, nor are we
17 challenging any beliefs that you have. You're
18 entitled to those. We are not asking you to
19 justify any of those things, so don't feel
20 like you have to. Also, no one is here to
21 invade any privacy either. Okay?

22 JUROR NUMBER 8: Okay.

23 THE COURT: So I appreciate your
24 willingness to do that. Will you state your
25 full name for the record?

1 JUROR NUMBER 8: Christine Areheart.

2 THE COURT: Ms. Areheart, I would
3 remind you that you're still under oath in
4 this matter. Okay?

5 JUROR NUMBER 8: Yes, sir.

6 CHRISTINE AREHEART, 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. Since we were together on Friday, have you
12 talked with anyone or permitted anyone to talk
13 with you about this case?

14 A. No, sir.

15 Q. Have you read any newspaper accounts or
16 watched any news programs about the case?

17 A. No, sir.

18 Q. When we were together on Friday, I failed
19 to mention two names that I need to ask you
20 about. Are you related by blood or marriage,
21 have any business dealings with or socially or
22 casually acquainted with or have any dealings
23 with Jeff Osborne or Matt Casey?

24 A. No, sir.

25 Q. When you came this morning, you were given

1 a sheet when you came in that sets forth three
2 types of jurors, have you had a opportunity to
3 review that sheet?

4 A. Yes.

5 Q. Which type most accurately describes you?

6 A. Type three.

7 Q. Type three is basically the type of juror
8 that basically says -- obviously, as you can
9 tell from those three types, those jurors are
10 involved in a case where the jury is going to
11 ultimately make the decision on the
12 appropriate sentence. Do you understand that?

13 A. Yes.

14 Q. Let me set the stage, so to speak. The
15 point that those type three jurors are listed,
16 they would have heard all of the evidence in
17 the first phase. In other words, the State
18 would have proved that person guilty beyond a
19 reasonable doubt of the crime of murder. Now
20 they would be about to move into the second
21 phase where the jury was going to hear
22 additional evidence about the appropriate
23 sentence & the sentence to be imposed. Do
24 you understand that?

25 A. Yes, sir.

1 Q. As I understand it, a type three juror --
2 what I see that juror would be saying is that
3 at this point, notwithstanding that I have
4 already voted and deliberated on this person
5 and found that he committed the crime of --
6 that he or she committed the crime of murder,
7 but I have an open mind as to the appropriate
8 sentence, whether it would be death or life
9 imprisonment without the possibility of
10 parole. Is that true?

11 A. Yes, sir.

12 Q. Let me -- that's very important because
13 that open mind, I would suggest to you, is a
14 very important attribute of a juror. As you
15 noted on Friday, I asked if anybody knew
16 anything about this case and nobody did. As
17 I recall, you didn't. Is that correct?

18 A. Yes, sir.

19 Q. So that means that you don't have any --
20 at this point you have an open mind about this
21 dispute, is that correct?

22 A. Yes, sir.

23 Q. That's correct. Just as a judge would
24 have asked you in the case that -- that
25 abstract case that we're talking about, and

1 you would have said 'I do have an open mind.'
2 I would suggest to you that it's important in
3 all of it but it is extremely important in the
4 second phase, because typically in this state
5 a jury is not involved with sentencing in a
6 murder case. Okay?
7 A. (Affirmative nod).
8 Q. The jury hears the first phase and
9 determines whether the State has proved beyond
10 a reasonable doubt or can prove beyond a
11 reasonable doubt that a person did the crime.
12 That's what would have happened there. You
13 would have heard all the evidence and, as a
14 juror, you would have made a commitment, such
15 as if you're selected in this case will make,
16 that you would decide the case based on the
17 evidence and the law and you would be fair and
18 impartial. You would have evaluated the
19 evidence, would have deliberated with your
20 other jurors and you'all would have decided
21 that, yep, the State proved that this is the
22 person before you that was accused of the
23 crime was the person that committed it; and,
24 yes, the crime was murder.
25 It wasn't manslaughter, involuntary

1 manslaughter -- those are the two lesser
2 degrees of killing somebody in this state.
3 Manslaughter is when somebody provokes,
4 generally there is provocation involved and
5 they kill someone. Involuntary is when they
6 were acting recklessly or something of that
7 nature. Do you understand that?

8 A. (Affirmative nod).

9 Q. None of that applies in that case because
10 you've ruled that out. You've said that this
11 case that we have, no question this person
12 committed murder. Murder is the intentional
13 killing of someone with malice. So they were
14 motivated by an evil spirit, evil heart, they
15 intended to kill that person, they went out to
16 kill them and they accomplished it. So that's
17 what we are talking about here. Okay?

18 A. (Affirmative nod).

19 COURT REPORTER: Your answer was
20 "yes"?

21 JUROR NUMBER 8: (Affirmative nod).

22 THE COURT: Thank you, Ms.
23 Garrison. It's normal for us to do what we're
24 doing, nodding our heads but Ms. Garrison is
25 taking down everything that we're saying. So

1 if you will say 'yes' or 'no', that will help
2 us keep that record straight. Okay?

3 JUROR NUMBER 8: (Affirmative nod).

4 EXAMINATION CONTINUED

5 BY THE COURT:

6 Q. You would have decided that and --
7 normally when a jury makes that determination,
8 the trial judge then imposes the sentence.
9 The most -- the harshest sentence that a trial
10 judge can impose in a normal situation is life
11 imprisonment without the possibility of
12 parole. There are other options less than
13 that but that is the maximum sentence that can
14 be imposed. Do you understand that?

15 A. (Affirmative nod).

16 Q. A judge can't even impose in that setting
17 a death sentence. That is not even on the
18 table. That is not an option. Okay?

19 A. (Affirmative nod).

20 Q. Because our law says that only in certain
21 murders can that become an option, and that's
22 where this jury has been empaneled and that's
23 one of the things in addition to evidence that
24 you hear, because it's part of -- it's a
25 consideration that you would have for

1 justifying the sentence of death.

2 But the State has to prove the existence
3 of one aggravating circumstance before a jury
4 can even consider death. The aggravating
5 circumstance is what makes this murder
6 different, it's what elevates it to the level
7 where a jury can consider a death sentence.

8 So one of the things -- the first thing
9 that jury has got to determine -- excuse me,
10 two days of talking has taken its toll.

11 Because until and unless the jury
12 determines that an aggravating circumstance
13 exists, I would -- if I am trying that case,
14 that abstract case, I would have told you that
15 you can't return a death sentence. The only
16 sentence that you can impose is life
17 imprisonment without the possibility of parole
18 unless you find, beyond a reasonable doubt,
19 the existence of an aggravating circumstance.

20 To give you an example, and there are
21 a number of them, statute-provided, and
22 certainly I will have given you all that would
23 have applied to that case. But just to give
24 you an illustration: the killing of a police
25 officer, the killing of a child. If that is

1 found beyond a reasonable doubt then the jury
2 has the right -- the right -- to consider
3 death.

4 Please understand something. Just because
5 you find the existence of an aggravating
6 circumstance, my instruction would be that now
7 you have the right to consider it. In other
8 words, you can consider that sentence together
9 with life imprisonment without the possibility
10 of parole and decide which one is the most
11 appropriate. Okay?

12 A. Okay.

13 Q. But I would never tell you that because
14 you found an aggravating circumstance you must
15 bring back a death sentence, because that's
16 always the jury's choice. Do you understand
17 that?

18 A. (Affirmative nod).

19 Q. It is my understanding that you'd have no
20 problem, being a type three juror, following
21 that instruction.

22 A. Yes, sir.

23 Q. Is that correct?

24 A. Yes, sir.

25 Q. That means that there are circumstances in

1 your mind that may warrant you imposing a
2 death sentence and there are circumstances
3 that while you would impose a death sentence
4 you would chose to impose life imprisonment
5 without the possibility of parole. Is that
6 correct?

7 A. Yes.

8 Q. But you don't know which one they are
9 until you've heard it all, is that right?

10 A. (Affirmative nod).

11 Q. Okay. Another part that you might hear,
12 and I would instruct you about it if it should
13 be, is something that the law calls mitigating
14 circumstances. Some of them are defined by
15 statute and some of them are nonstatutory.
16 Mitigating circumstances are those facts and
17 circumstances that would tend to lessen that
18 murder, in other word give you some
19 explanation -- just justification, nothing
20 would justify it but just an explanation for
21 why certain acts were taken; such as,
22 addictions, drug addictions, a person's mental
23 condition that wouldn't amount to insanity but
24 may have affected emotional and mental issues,
25 mental health issues that may have been

1 involved. Uh, -- the upbringing as a child.
2 Those types of things that if they're present
3 they're called mitigating circumstances. So a
4 part of my instructions would tell you that as
5 a jury, if they're present, you must give
6 meaningful consideration, serious, meaningful
7 consideration to those factors if they are
8 present. Would you have any problem following
9 that instruction?

10 A. No, sir.

11 Q. Okay. It doesn't mean that they are
12 controlling, one way or the other. I'm just
13 saying that you would have to consider them
14 and factor all of that into your decision of
15 what the appropriate sentence would be, and
16 you would be willing to do that?

17 A. Yes, sir.

18 Q. I would have also instructed you if I was
19 trying the case that we're talking about here
20 that -- and you would have heard that in the
21 first phase and you'd hear it in the second
22 phase, that persons who are accused of
23 criminal offenses are never required to prove
24 anything. They are not required to present
25 evidence, they have no obligation to prove

1 their innocence. They don't have any
2 obligation to respond at all, because the law
3 says the burden, the only burden, rests on the
4 State. That applies to the first and to the
5 second phase. Do you understand that?

6 A. Yes, sir.

7 Q. Would you have any problem following that
8 instruction?

9 A. No, sir.

10 Q. And that would mean that if there weren't
11 any mitigating circumstances in the record for
12 your consideration, you couldn't hold that
13 against the defendant. Would you honor that,
14 as well?

15 A. Yes, sir.

16 Q. No problem doing that, is ---

17 A. No, sir.

18 Q. --- is that correct?

19 A. Yes, sir.

20 Q. Okay. Now, let's assume that we're at a
21 point now that we've had and considered
22 mitigating circumstances, as you said that you
23 would, and you've heard all the law, and
24 you're at a point now to discuss the sentence.

25 There is one other aspect and, again, it

1 points out the critical need for you to keep
2 that open mind. Further justification for it,
3 should that be necessary. Because a part of
4 my instruction would say to you 'you have the
5 right as a juror, even though you find an
6 aggravating circumstance to impose a life
7 imprisonment without the possibility of parole
8 sentence for no reason whatsoever.'

9 In other words, there may be no mitigating
10 circumstances and you'd still have the right
11 to do it, if you choose to.

12 Any problem following that instruction?

13 A. No, sir.

14 Q. Okay. With all that instruction then and
15 all the facts that you have now heard, all
16 factors that would be important to a juror in
17 making this determination between a life and
18 death, it is my understanding that you believe
19 that you have the ability to apply your common
20 sense, your sense of logic and reasoning in
21 that situation fairly and impartially, analyze
22 the facts, decide what you believe to be the
23 truth and then take the law, as I would have
24 given it to you, and apply it and reach a
25 decision. The decision would be -- could be

1 life imprisonment without the possibility of
2 parole or it could be a death sentence, but
3 you don't know which one until you've heard
4 all the facts. Is that correct?

5 A. Yes, sir.

6 Q. But it could be either of those?

7 A. Yes, sir.

8 Q. Let's focus our attention now for just a
9 few moments with this case. We're moving now
10 from that abstract. On Friday I told you that
11 Mr. Dickerson has been accused of some crimes
12 and we talked about one very important
13 principle of law and I believe that you didn't
14 have any problem with the presumption of
15 innocence. Is that correct?

16 A. (Affirmative nod).

17 Q. That is a very important presumption that
18 applies in this state and every state in the
19 United States, that persons who are accused
20 are presumed innocent. That is an active
21 presumption. That means that we are required
22 under the law to view those persons as
23 innocent.

24 Do you have any problem today, as you look
25 at Mr. Dickerson, thinking that he is innocent

1 of these charges?

2 A. Could I ask you to repeat that?

3 Q. Do you have any problem as you look at Mr.
4 Dickerson, considering him to be totally
5 innocent of these charges?

6 A. No, sir.

7 Q. Okay. And you understand that that has to
8 remain if you were on the jury until the State
9 had presented its evidence and you'd had a
10 chance to consider and you were then firmly --
11 until you were firmly convinced, beyond a
12 reasonable doubt, as to each element of the
13 crime before you can change that position. Do
14 you understand that?

15 A. Yes, sir.

16 Q. I would also instruct you, as I have told
17 you in the abstract case, and in this case if
18 you are sitting, that Mr. Dickerson doesn't
19 have any burdens of proof. He doesn't have to
20 present any evidence, he doesn't have to
21 explain anything or justify anything. I
22 believe that you've already told me that you'd
23 have no problem with that. Is that correct?

24 A. Yes, sir.

25 Q. So you would never hold that against him?

1 A. (Negative gesture).

2 Q. Okay. Based on what you've heard thus
3 far, you've stated that you don't know
4 anything about this dispute, is there anything
5 now that would give you any concern about your
6 ability to sit as a judge with me and, at the
7 appropriate time, fairly and impartially apply
8 your common sense, your sense of logic and
9 reason?

10 A. No, sir.

11 Q. Likewise, you understand that you would be
12 the sole judge of the facts and it would be my
13 responsibility to be the sole judge of the
14 law?

15 A. Yes, sir.

16 Q. And there's nothing that you have heard
17 that would give you any concern about your
18 ability to take the law as I give it to you
19 and apply that law fairly and impartially to
20 those facts. Is that true?

21 A. Yes, sir.

22 Q. And that would be even though you may hear
23 some principle of law that causes you to have
24 to say, 'I don't usually like to do this', but
25 you're willing to set aside your personal

1 feelings in that regard or your personal
2 thoughts about what the law was or should be.
3 You are willing to set all those aside and
4 take the law as I give it to you?

5 A. Yes, sir.

6 THE COURT: Thank you. Please
7 answer any questions that the attorneys may
8 have.

9 VOIR DIRE EXAMINATION

10 BY MR. BLOOM:

11 Q. Good morning, Ms. Earheart.

12 A. Hi.

13 Q. My name is Jeff Bloom and along with
14 Andrew Carroll, who is out of the courtroom
15 right now, we represent William Dickerson.
16 I just have a few followup questions from what
17 Judge Dennis asked you.

18 Let me ask you first, I notice that you
19 work at MUSC?

20 A. (Affirmative nod).

21 Q. I know that's a big place and some
22 witnesses were named on Friday so I want to go
23 over them briefly with you.

24 A. Okay.

25 Q. What department do you work there?

1 A. Biology.

2 Q. Do you know a Dr. Cynthia Schandl who
3 works in Pathology and does autopsies?

4 A. No, sir.

5 Q. Okay. How about a Sandra Fokes? She used
6 to work in Maintenance and Housekeeping and
7 also did some clerical work?

8 A. No, sir.

9 Q. She has gone by past names such as Sandra
10 Jenkins?

11 A. (Negative gesture).

12 Q. Or Sandra Dickerson?

13 A. No, sir.

14 Q. Thank you.

15 A. Um-humm.

16 Q. Another thing that I just wanted to ask
17 you, if we were having a Diet Dr. Pepper or
18 coffee after work and something came on the TV
19 about the death penalty and we got to talking
20 about it, what would your opinion about the
21 death penalty be?

22 A. I think that it would be the same thing as
23 a type three.

24 Q. Okay.

25 A. I believe in it as right in some

1 situations.

2 Q. Okay. Let me ask you next if in the
3 spectrum of things you think it is imposed too
4 often, not often enough, about right? Have
5 you given any thought to that?

6 A. No, sir.

7 Q. Okay, fair enough. Sure. And you
8 understand that there are no right or wrong
9 answers, that were not here to question your
10 opinions, we just kind of need to know. Okay?

11 A. Okay.

12 Q. Now, the next thing that I want to touch
13 on is that Judge Dennis, I believe, defined
14 murder for you. He called it a malice murder,
15 where someone does something mean-spirited or
16 with malice, an evil heart. Just went out and
17 found someone and did it.

18 Some folks feel that once they've found
19 someone guilty of malice murder they don't
20 need to listen to Judge Dennis's instruction
21 or hear anything else in that second phase,
22 they've got their minds made up already. But
23 I take it that you aren't in that group?

24 A. No, sir.

25 Q. If you were in that case you would be able

1 to go to the second phase and hear everything
2 else?

3 A. That's true.

4 Q. Still keep an open mind?

5 A. Yes, sir.

6 Q. All right. Now, -- and you understand
7 that no one is asking you ahead of time for a
8 commitment or how you would vote in this case.

9 A. Right.

10 Q. The next thing that Judge Dennis asked you
11 about and I heard your answers but I just kind
12 of need to ask to make sure, he explained
13 mitigating circumstances to you.

14 Sometimes we get caught in those legal
15 phrases but he gave you some examples of what
16 they are generally -- things such as how a
17 person is raised, their childhood, upbringing,
18 drug addiction, mental health, all sorts of
19 things that may have nothing to do with the
20 crime itself, more to kind of explain how a
21 person got to that point.

22 Some people of a group that, you know, 'I
23 don't want to hear anything about that. I am
24 going to focus on the crime and what happened
25 there.' While it is evidence, 'I don't need

1 to know anything else about what the defendant
2 did or how he was raised.' I take it that
3 you're not in that group.

4 A. No, sir.

5 Q. You'd listen to the evidence.

6 A. Yes, sir.

7 Q. And, as the Judge said, give it meaningful
8 consideration?

9 A. Yes, sir.

10 Q. And that is something that you could
11 weigh, under all circumstances?

12 A. Yes, sir.

13 Q. In that regard, Judge Dennis then told you
14 and I think you clearly understood but I want
15 to make sure that you understood, that the
16 death penalty is never required. Do you
17 remember him saying that?

18 A. Yes, sir.

19 Q. I notice that you have a background in
20 Biology?

21 A. Yes, sir.

22 Q. Science?

23 A. Yes, sir.

24 Q. Do you kind of know that if you put one
25 chemical with another chemical, you get -- you

1 know, A-plus-B equals C reaction every time.

2 Right?

3 A. Yes, sir.

4 Q. Judge Dennis explained that is not how
5 this system works. There is never any law or
6 instruction where a jury is required to turn
7 back a death sentence; do you understand that?

8 A. Yes, sir.

9 Q. Once you hear all the evidence and if you
10 find certain circumstances that the judge
11 explains, it is totally your decision. Do
12 you understand that?

13 A. Yes, sir.

14 Q. The law calls that individualized,
15 reasoned moral judgment. Can you accept that?

16 A. (Affirmative nod).

17 Q. And you will hear all the evidence, listen
18 to the judge's instructions and after you
19 debate with other jurors and discuss,
20 listening back and forth, you could come to
21 your own individualized, reasoned moral
22 judgment?

23 A. Yes, sir.

24 Q. The next thing that I want to ask you is,
25 once all that has happened -- you've heard all

1 the evidence, Judge Dennis' instruction,
2 debates and discussed with the other jurors
3 and you've come to your own individualized,
4 reasoned moral judgment, if eleven jurors are
5 going one way and you make your decision
6 another, you've not just going to give up your
7 vote because it's late, you want to go home,
8 dinner's on the table. You can stand by your
9 own individualized, reasoned moral judgment?

10 A. Yes, sir.

11 Q. And you would want the other jurors to
12 respect your vote?

13 A. Yes, sir.

14 Q. And you would respect theirs?

15 A. Yes, sir.

16 MR. BLOOM: Thank you very much, I
17 have no further questions.

18 THE COURT: Thank you, Mr. Bloom.
19 Mr. Durant?

20 BRUCE DURANT: Thank you, Your
21 Honor.

22 VOIR DIRE EXAMINATION

23 BY BRUCE DURANT:

24 Q. Good morning, Ms. Earheart. My name is
25 Bruce Durant, I'm the Deputy Solicitor. This

1 is the Solicitor, Scarlet Wilson. This is
2 Rutledge Durant. We will be handling this
3 case on behalf of the State of South Carolina.

4 I will be very brief. I just have a
5 couple of questions. I have a good friend
6 that is a PA, named Becky Miller, would you
7 know her by any chance?

8 A. I've heard the name.

9 Q. But you don't know her?

10 A. I don't know her.

11 Q. You don't think that would have any affect
12 on your ability to serve as a juror?

13 A. No, sir.

14 Q. Okay. I notice in your questionnaire that
15 you have a lot of family members that are
16 pastors. Do you believe that would have any
17 impact on your ability to be a fair and
18 impartial juror in this case?

19 A. No, sir.

20 Q. You don't believe that there would be any
21 family pressure or anything like that?

22 A. No, sir.

23 Q. Okay. And I think I probably know the
24 answer to this question but, you know, you
25 have people that are against the death penalty

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1 under any circumstances and then people that
2 are for the death penalty in all
3 circumstances. Where do you kind of fall in
4 that spectrum?

5 A. I don't know if I am really on either
6 side.

7 Q. So ---

8 A. I guess in the middle.

9 Q. --- you're kind of in the middle?

10 A. Yes, sir.

11 Q. Okay. If it came down to it and you and
12 the jury deliberated in accordance with the
13 judge's instructions and determined that a
14 death sentence might be appropriate, could you
15 sign the name to the form requiring someone to
16 be put to death?

17 A. You're saying if I ---

18 Q. Not you but could -- could you sign a
19 verdict form, along with the other eleven
20 jurors, requiring that someone be put to
21 death?

22 A. Yes, sir.

23 BRUCE DURANT: I have no further
24 questions. Thank you.

25 THE COURT: Anything else, Mr.

1 Bloom?

2 MR. BLOOM: No, sir.

3 THE COURT: Thank you very much,
4 Ms. Earheart. If you would, step out just for
5 a moment, please.

6 (JUROR NUMBER 8 EXITS COURTROOM)

7 THE COURT: I find Ms. Earheart to
8 be qualified. Any objection, Mr. Durant?

9 BRUCE DURANT: No, sir.

10 THE COURT: Any objection, Mr.
11 Bloom?

12 MR. BLOOM: No, sir.

13 THE COURT: Ask her to step in,
14 please.

15 (JUROR NUMBER 8 ENTERS COURTROOM)

16 THE COURT: Thank you. Thank you
17 very much, and I appreciate your patience.
18 You've been found to be qualified to be a
19 member of the panel from which we will select
20 our jury.

21 That will take place tomorrow morning
22 at 9:30. When you come tomorrow, if you will
23 come and just take a seat in the audience and
24 we'll start that process, hopefully about
25 9:30. You need to be prepared to stay, if

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1 need be because we'll start the trial at that
2 time after the jury is selected.

3 Until then and until you have been
4 dismissed from this case, please remember that
5 you still are not at liberty to discuss this
6 case with anyone or permit anyone to talk with
7 you about it. Also, please continue not to
8 watch any news programs about it or read any
9 news accounts. Have a great day and we'll see
10 in the morning.

11 JUROR NUMBER 8: Be here at 9:30?

12 THE COURT: Here at 9:30. Just
13 come directly to this courtroom. Thank you.

14 (JUROR NUMBER 8 EXITS COURTROOM)

15 THE COURT: Juror Number 50,
16 please. Mr. Clapp.

17 (JUROR NUMBER 50 ENTERS COURTROOM)

18 THE COURT: Good morning.

19 MR. CLAPP: Good morning. How are
20 you?

21 THE COURT: Very well. Thank you,
22 sir. Appreciate it.

23 Mr. Clapp, we are going to continue
24 the process that we started on Friday. I am
25 going to have some questions that I need to

1 ask of you and the attorneys probably will
2 have some, too.

3 As you probably noted on Friday and
4 recall, there really are no correct answers to
5 any of these questions. They are really just
6 designed to help you and to help us make a
7 determination as to whether you can be a fair
8 and impartial judge in this matter. Okay?

9 JUROR NUMBER 50: Yes, sir.

10 THE COURT: All that we ask, sir,
11 is that you give a truthful response, a
12 complete response and a candid response. Will
13 you do that, sir?

14 JUROR NUMBER 50: Yes, I will.

15 THE COURT: I would remind you in
16 that regard that you are still under oath in
17 this matter. Okay?

18 JUROR NUMBER 50: Yes, sir.

19 RICHARD CLAPP, being duly sworn to
20 tell the truth, the whole truth and nothing
21 but the truth, testified, as follows:

22 VOIR DIRE EXAMINATION

23 BY THE COURT:

24 Q. Since we were together on Friday, have you
25 talked with anyone about this case or

1 permitted anyone to talk with you about it or
2 to talk about it in your presence?

3 A. Only to the extent that I am on-call and I
4 need to have arrangements made to take care of
5 things.

6 Q. But no one has talked to you about the
7 case itself?

8 A. No.

9 Q. Just the mechanics of being a member of a
10 jury?

11 A. Correct.

12 Q. Some of the logistical problems?

13 A. Correct.

14 Q. And you haven't read any newspaper
15 accounts or watched any news programs, have
16 you?

17 A. I watched them but I didn't see anything
18 on the case. No.

19 Q. If they came on, you turned them off or
20 you -- you didn't see any?

21 A. (Negative gesture), I did not.

22 Q. Very good. Do you recall that I gave you
23 the names of a number of individuals on
24 Friday?

25 A. Yes, sir.

1 Q. I failed to mention two that I need to ask
2 you about. Are you related by blood or
3 marriage, have any business dealings with or
4 are you socially or casually acquainted with
5 or have any dealings with Jeff Osborne or Matt
6 Casey?

7 A. No, neither.

8 Q. When you came today you were given a sheet
9 when you came in that sets forth three types
10 of jurors, have you had a opportunity to
11 review that sheet?

12 A. I did.

13 Q. Which type most accurately describes you?

14 A. Type two.

15 Q. Type two?

16 A. Yes.

17 Q. Type two is basically, to set the stage,
18 that juror -- those jurors who are involved,
19 obviously, in a case in which they are to
20 determine the appropriate sentence for a
21 person convicted of murder. They would have
22 already gone through the first phase and found
23 that the person the State had accused was that
24 person. Do you understand that?

25 A. Yes, I do.

1 Q. The point of the sheet, they've not
2 entered yet the second phase where they are
3 going to hear additional evidence about the
4 appropriate sentence to be imposed. Do you
5 understand that?

6 A. Yes, I do.

7 Q. It is my understanding that as a type two
8 juror that you as that type of juror could go
9 through the entire phase of the second phase,
10 where you could receive evidence about -- that
11 would be pertinent to that sentence, including
12 aggravating circumstances, which are important
13 because a juror in this state cannot even
14 consider a death sentence unless aggravating
15 circumstances are established beyond a
16 reasonable doubt, because the only sentence
17 that can be applied is life without parole.
18 unless that is present. That's one aspect
19 that you would hear in that second phase.

20 It is my understanding that if you were on
21 that jury panel and you heard, and the jury
22 concluded, that that aggravating circumstance
23 had been established and you had heard all the
24 other evidence that was pertinent to that
25 decision, you, and your strong beliefs, would

1 prevent you from -- while the judge would tell
2 you that you could consider it and that you
3 didn't have to bring it back, you wouldn't
4 have to return a death sentence, but it is my
5 understanding that, listening to all the
6 evidence in that case, there is no set of
7 circumstances in which you could be a juror
8 where you would vote to impose a death
9 sentence?

10 A. Personally, that's correct.

11 Q. Now, I appreciate that. That's a very
12 legitimate and understandable position. You
13 said personally that would be correct. My
14 question to you is this, because one of the
15 things that a jury has to do is they have to
16 say, 'Judge, first of all I have an open mind
17 about this, I know nothing about it, there is
18 nothing about this case that would cause me to
19 predetermine anything, so I am willing to be a
20 fair and impartial juror in analyzing the
21 facts and decide the true -- applying my
22 common sense, my sense of logic and reason.'

23 The second part is, because your oath says
24 "consistent with the facts" or with "the
25 evidence and the law." The evidence of course

1 consists of testimony of witnesses and
2 exhibits and that is how you would consider
3 that.

4 The law, you have nothing to do with.
5 What the law says is that you have to make a
6 commitment that you would set aside your
7 personal beliefs, your philosophies and even
8 -- even your concepts and ideas of the law and
9 take the law as the court gave it to you and
10 apply it fairly and impartially. My question
11 is, are you telling me that notwithstanding
12 that I would instruct you that you have to
13 consider that, if you get to that point, that
14 in fairness you have to give consideration to
15 that and you have to be able to do it, if
16 necessary.

17 Are your personal beliefs so strong that
18 you could not set those aside and participate
19 in sentencing someone to death, notwithstand-
20 ing my instruction that you would have to do
21 that?

22 A. It would be difficult.

23 Q. Well, I appreciate that.

24 A. No, I could not.

25 Q. You could not?

1 A. I could not vote for death.

2 Q. That's the ultimate question. Let me say
3 something to you, as I said, nobody is going
4 to challenge your beliefs. You are entitled
5 to them.

6 I just need to know whether it's something
7 that you believe that you could
8 conscientiously do and still live with
9 yourself, so to speak?

10 Some people may be able to, some people
11 may not be able to. That's not a criticism of
12 you or a criticism of them. That's just
13 simply an observation.

14 As I understand what you're telling me,
15 that's not something that you could do?

16 A. That's correct.

17 Q. Under any circumstance?

18 A. I -- no.

19 Q. Okay.

20 THE COURT: Any questions from the
21 State?

22 VOIR DIRE EXAMINATION

23 BY BRUCE DURANT:

24 Q. Good morning, Mr. Clapp. My name is Bruce
25 Durant, I am the Deputy Solicitor. This is

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1 Scarlet Wilson, the Solicitor, and Rutledge
2 Durant. We will be handling this case.

3 I am going to be very brief because I
4 think I know what your answer is. My question
5 is simply this, you could not impose the death
6 penalty under any circumstances where life
7 imprisonment without the possibility of parole
8 is on the table, as well. Is that correct?

9 A. Say that again?

10 Q. You could never impose a death penalty in
11 any case where there was also an option to
12 impose a sentence of life imprisonment without
13 the possibility of parole?

14 A. Yes, that's correct.

15 Q. Would that truly state your belief?

16 A. That's correct. I could not impose the
17 death penalty ---

18 Q. No matter the circumstance?

19 A. No.

20 Q. You could never do it?

21 A. No.

22 Q. Is that a moral decision on your part?

23 A. Yes, it is.

24 Q. And it would make no difference what the
25 judge's instruction are, is that correct?

1 A. That's correct.

2 BRUCE DURANT: Thank you, I have
3 nothing further.

4 MR. BLOOM: I just have one
5 question.

6 THE COURT: Yes, sir.

7 VOIR DIRE EXAMINATION

8 BY MR. BLOOM:

9 Q. Mr. Clapp, in part is your belief based on
10 your religious faith and your religious
11 beliefs?

12 A. Yes, it is.

13 MR. BLOOM: Thank you, sir.

14 THE COURT: I have one followup
15 because I note on your form that you filled
16 out that you said that you were in favor of
17 it, and you're just saying that from your
18 perspective as a citizen you believe the death
19 penalty is -- what? Is okay?

20 JUROR NUMBER 50: I believe -- I
21 don't have any problem with somebody else
22 physically putting their vote in to get it
23 done under certain circumstances, I just
24 personally ---

25 THE COURT: Can't participate?

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1 JUROR NUMBER 50: (Negative gesture).

2 I can't.

3 THE COURT: Thank you very much,
4 Mr. Clapp. I am going to excuse you from
5 further participation in this dispute. I
6 thank you for your candor, I thank you for
7 your being involved in the process. I wish
8 you well. You are now -- you don't have to
9 report any more this week. That concludes
10 your services, sir. Good luck to you, sir.

11 JUROR NUMBER 50: Thank you very much
12 and to you all as well.

13 THE COURT: Thank you.

14 (JUROR NUMBER 50 EXITS COURTROOM)

15 THE COURT: Any objection from the
16 State to my disqualifying the juror?

17 BRUCE DURANT: No, sir.

18 THE COURT: I'll be happy to hear
19 from you.

20 MR. BLOOM: Ours would only be
21 under the First, Eighth and Fourteenth
22 Amendments, as with the others, as to
23 religious belief.

24 THE COURT: Thank you. Of course,
25 the rationale and my reasoning for doing so is

1 because his beliefs and view, given clearly
2 and stated clearly, would impair his
3 performance as a juror and that he could not
4 follow the court's instructions fully. Those
5 beliefs would interfere with that. Thank you
6 so much. Thank you so much.

7 Let's bring in Juror Number 262, Mr.
8 Salmonsens.

9 MR. BLOOM: Judge, if I may, he
10 listed a medical. If you would inquire about
11 that?

12 THE COURT: I am going to -- but,
13 first, any objection to my excusing him?

14 MR. BLOOM: He approached you
15 during general qualification and I would just
16 feel more comfortable about your inquiring
17 into his medical.

18 THE COURT: I will. I will do
19 that. No problem.

20 MR. BLOOM: Thank you.

21 THE COURT: Did he ---

22 COURT REPORTER: Yes, sir, he said
23 he was diabetic.

24 THE COURT: Right, that he has to
25 go to the bathroom frequently. My note says

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1 that the medication wears off in the after-
2 noon.

3 (JUROR NUMBER 262 ENTERS COURTROOM)

4 THE COURT: Good morning, Mr.
5 Salmonsens. How are you, sir?

6 JUROR NUMBER 262: Fine, sir.

7 THE COURT: Good.

8 THE COURT: Thank you for coming
9 today. I appreciate it. Need to ask -- we
10 are going to continue the process that we
11 started on Friday. There are some questions
12 that I need to ask of you, the attorneys need
13 to ask of you. There are no correct answers
14 to any of these questions. We just need you
15 to be truthful and candid in your responses.

16 Please understand and know that you're not
17 -- that your personal beliefs and
18 philosophies, we're not here to challenge
19 those. You are entitled to those. Please do
20 not feel that you have to defend them and
21 don't feel that anybody is trying to change
22 your mind about anything because that's the
23 purpose of this. Because there aren't any
24 correct answers.

25 So can we trust you to be candid and

1 truthful in responding? Will you do that?

2 JUROR NUMBER 262: Yes, sir.

3 THE COURT: I remind you that
4 you're still under oath in this matter.

5 JUROR NUMBER 262: Yes, sir.

6 KEVIN SALMONSEN, being duly sworn to
7 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. Before I start asking you questions, I
12 want to revisit something and I -- in looking
13 at your form, and you share something with me
14 on Friday, you have a condition, a medical
15 condition, and your medication ---

16 A. I take diuretics, which causes me to go to
17 the bathroom every four or five minutes during
18 the mornings.

19 Q. Do you believe that would affect you and
20 impair your service as a juror?

21 A. Well, it's according to how long it takes.

22 Q. Well, my question is -- what I read is
23 that it's every fifteen to twenty minutes?

24 A. Well, it's more like forty-five minutes
25 but, still, -- (pause).

1 Q. So you would have to stop the process
2 between thirty and forty-five minutes ---

3 A. Yeah, I have to go. It flushes my kidneys
4 out and ---

5 Q. Oh, I understand the purpose of it because
6 I've taken them myself and I -- I ---

7 A. You know what I'm talking about then?

8 Q. Oh, absolutely. I am going to ask you to
9 step out for just a moment. We have to
10 discuss these things out of your presence. I
11 will be with you in just a second.

12 (JUROR NUMBER 262 EXITS COURTROOM)

13 THE COURT: I am not going to put
14 that man through that, folks. I don't know
15 about you all but when I'm sitting here,
16 waiting, I know that my focus is affected from
17 time to time. I understand and -- I don't
18 think that it's something where he's trying to
19 avoid serving. Any objection from the State?

20 SOLICITOR WILSON: No, sir.

21 BRUCE DURANT: I'm getting a
22 little out of focus right now.

23 THE COURT: I understand. Any
24 objection, Mr. Bloom?

25 MR. BLOOM: No, sir.

1 THE COURT: Thank you, let's have
2 him come back in.

3 (JUROR NUMBER 262 ENTERS COURTROOM)

4 THE COURT: Mr. Salmonsens, thank
5 you very much. You've been most cooperative
6 and I thank you for your willingness to be a
7 part of this process. I am going to take that
8 and think that would really affect you.

9 JUROR NUMBER 262: Yea, I'd have to
10 raise my hand about every ---

11 THE COURT: I understand that. We
12 could accommodate that but the problem that I
13 have is that I think, just as a human being
14 once you start that process it has a tendency
15 -- your focus is somewhat affected by that.
16 To avoid any problems along those lines, you
17 would wish to be excused?

18 JUROR NUMBER 262: Yes, sir.

19 THE COURT: Very well, you are
20 excused. Have a great day.

21 (JUROR NUMBER 262 EXITS COURTROOM)

22 THE COURT: Folks, let's take about
23 five minutes, ten minutes. Thank you.

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.

1406

1 THE COURT: Let the record reflect
2 that Mr. Dickerson is present. Invite Ms.
3 Ancrum to join us, Juror Number 4.

4 (JUROR NUMBER 4 ENTERS COURTROOM)

5 THE COURT: Good morning, Ms.
6 Ancrum.

7 JUROR NUMBER 4: Good morning.

8 THE COURT: How are you, ma'am?

9 JUROR NUMBER 4: Good, and you?

10 THE COURT: Fine, ma'am. If you
11 will sit and pull yourself up so that you can
12 speak into that mic comfortably.

13 We are going to continue that process
14 that we started on Friday in that we have some
15 questions that we may have for you this
16 morning. I have some and the attorneys may
17 have some questions, as well.

18 Just as you have already heard me
19 say, there really are no correct answers to
20 any of these questions. They are just
21 designed to help you and to help us make a
22 decision whether you would be a fair and
23 impartial juror in this case. Okay?

24 JUROR NUMBER 4: Okay.

25 THE COURT: We want you to

1 understand that no one is here to challenge
2 any beliefs or philosophies that you have, nor
3 are we trying to change your mind about
4 something, nor are we trying to invade any
5 privacy -- any private issues.

6 Again, we just simply ask that you
7 answer the questions truthfully and candidly.
8 Will you do that?

9 JUROR NUMBER 4: Yes, sir.

10 THE COURT: I would remind you in
11 that regard that you are still under oath in
12 this matter. Okay?

13 JUROR NUMBER 4: Yes, sir.

14 THERESA ANCRUM, being duly sworn
15 to tell the truth, the whole truth and nothing
16 but the truth, testified, as follows:

17 VOIR DIRE EXAMINATION

18 BY THE COURT:

19 Q. Ms. Ancrum, when we were last together on
20 Friday, have you talked with anyone or
21 permitted anyone to talk with you about this
22 case?

23 A. No, sir.

24 Q. Have you read anything about it or watched
25 any news programs about it?

1 A. No, sir.

2 Q. On Friday I listed a number of persons and
3 asked you whether you had any relationship to
4 any of those persons. I failed to mention two
5 names that I need to ask you about. Are you
6 related by blood or marriage, have any
7 business dealings with or socially or casually
8 acquainted with or have any dealings with
9 either Jeff Osborne or Matt Casey?

10 A. No, sir.

11 Q. You were given a sheet when you came in
12 that sets forth three types of jurors, have
13 you had a opportunity to review that sheet?

14 A. Yes, sir.

15 Q. Of the three types of jurors, which type
16 most accurately describes you?

17 A. Number three.

18 Q. Number three -- and, obviously, -- let me
19 tell you a little bit, and you've obviously
20 already figured it out, but obviously the
21 jurors on that sheet are dealing with a case
22 in which murder was the charge. It's a case
23 in which that jury is going to be involved in
24 sentencing that particular person. Do you
25 understand that?

1 A. Yes, sir.

2 Q. You -- if you were on the jury, you would
3 have already at the point of the questioning,
4 you would have been through that first phase
5 where you heard all the evidence about who did
6 it. Okay?

7 A. (Affirmative nod).

8 Q. And you would have -- you and the other
9 jurors would have concluded that the person
10 that the State had accused was that person.
11 That's one thing that has been established, no
12 question about it, beyond a reasonable doubt,
13 they got the right person.

14 Secondly you would have concluded that
15 this killing was murder, not -- in this state
16 we don't have -- in this state, unlike some
17 states where degrees may occur -- murder in
18 the first degree, second, we don't have that.
19 In this state it is murder. The lesser
20 offenses of killing someone in this state are
21 called manslaughter and involuntary
22 manslaughter. Those are the two others that
23 would deal with a killing in a murder
24 situation.

25 So you've ruled out any of those.

1 This is one where the person intended to kill
2 someone, they did it with malice -- meaning
3 that they were motivated by an evil spirit,
4 bad feelings, just wrong, all the wrong
5 reasons, no rationale for doing it, no
6 justification for doing, no self-defense, not
7 an accident, not a mistake, none of those
8 things. It was murder. Okay?

9 A. Okay.

10 Q. And I understand now that if you're on
11 that jury -- and let me talk just a moment
12 about being a juror, in general, in that
13 setting and in this setting.

14 If you are on this jury, you'll hear this
15 again. Jurors are judges, number one, as I
16 told you when I qualified you. They have a
17 very important function. They are the ones
18 that become the judge of the facts. I think
19 that there are two very important
20 characteristics of jurors that makes them
21 really good.

22 Number one is that they are willing to
23 apply their common sense, their sense of logic
24 and reasoning fairly and impartially. That
25 requires them to set aside all human emotions

1 and be very methodical about analyzing
2 evidence.

3 Number two, they have to start the process
4 with an open mind. They have to make a
5 commitment and as part of that commitment when
6 they say that they are going to make the
7 decision based on the evidence and the law,
8 that's part of the oath that you would take as
9 a juror. You would take it in this case, what
10 we're calling this abstract case. Do you
11 understand that?

12 A. Yes, sir.

13 Q. Part of your instructions from the court
14 would be that you can't change that position,
15 that open mind, until the court tells you to
16 begin your deliberations. Okay? That's
17 important.

18 Now, once you're instructed to begin your
19 deliberations, you're expected to then apply
20 your common sense, analyzing the evidence.

21 Then once you decide the true facts from
22 the evidence, you take the law as the court
23 gave it to you. That's important, too.
24 That's another part. You don't have anything
25 to do with the law because yours is to

1 determine the facts.

2 But you promise to take the law and set
3 aside all of your personal feelings about the
4 law or your philosophies that may differ with
5 the law. You say, 'I may not agree with that,
6 that might not be something that I would
7 normally do' but because I am on this jury and
8 the law tells me that I have to do this, that
9 I must do this, I will do this. I will not be
10 influenced by my personal feelings.' Okay?

11 A. Yes, sir.

12 Q. So at this point you're that type of
13 juror. You would have an open mind about the
14 charge and now the judge has instructed you
15 and you've determined 'Did the State charge
16 the right person?' And, you'd said 'yes
17 by your verdict, that they were guilty.

18 Now we're moving into that second phase.
19 As I understand -- obviously types one and
20 two, they speak for themselves, they don't
21 have that open mind. Do they?

22 A. No, sir.

23 Q. Because they have already have a
24 predetermination of 'now, we've convicted them
25 and this is the punishment that we think is

1 most appropriate.'

2 But as I understand you, the second phase
3 is where you are going to hear the evidence
4 and you don't have an opinion at this point
5 what the appropriate sentence is for this
6 person. Is that correct?

7 A. Correct.

8 Q. That's very important.

9 A. (Affirmative nod).

10 Q. It's important for the whole principle of
11 being a juror, but it's important also because
12 in this state normally in a murder the jury is
13 not involved in the sentencing. Normally the
14 jury determines whether the State has made the
15 charge correctly. In other words, did they
16 prove their charge beyond a reasonable doubt.
17 But if the jury returns a guilty verdict, as
18 they would have in that abstract case, the
19 judge would be imposing the sentence.

20 But the judge in a normal situation in a
21 murder cannot, can never impose the death
22 sentence. The maximum that the court could
23 impose is life imprisonment without the
24 possibility of parole. Do you understand
25 that?

1 A. Okay.

2 Q. But our law says that if there are certain
3 circumstances that the State proves existed at
4 the time that this murder was committed, then
5 in those limited situations the death sentence
6 may be an option. Okay?

7 A. (Affirmative nod).

8 Q. But those have to be established to exist.
9 So it's very important that you have an open
10 mind, because one of the things that you're
11 going to have to determine in that first phase
12 -- it is a factor to be considered in the
13 sentencing, obviously, because it is something
14 that makes -- it makes the murder more severe.

15 Let me give you some examples. There are
16 a number of them that the law sets forth very
17 specifically, but just so that you understand,
18 maybe the case involving, that abstract case,
19 the killing of a police officer or the killing
20 of a child. The law says that if the State
21 proves that in the second phase, beyond a
22 reasonable doubt, then you're entitled to
23 consider a death sentence.

24 But if they don't -- in other words, if
25 that circumstance isn't established, then the

1 only sentence that the jury can bring down is
2 life imprisonment without the possibility of
3 parole.

4 Why? Because they've got to prove that
5 aggravating circumstance to get it to that
6 level. So you can see that's another very
7 important reason because you can't even think
8 about a death sentence until that has been
9 established beyond a reasonable doubt.

10 Do you understand that?

11 A. Yes, sir.

12 Q. Okay. You would have no problem with
13 that, is that correct?

14 A. (Affirmative nod): No, sir.

15 Q. And you would be able to consider the
16 evidence and make a determination, apply your
17 common sense and make a determination whether
18 the State had convinced you of at least one
19 aggravating circumstance?

20 A. Yes, sir.

21 Q. I would further instruct you in that
22 regard that if the State does prove that, then
23 and only then would the jury have the second
24 option on the table, so to speak. In other
25 words, now you've had to pick whether you were

1 going to impose a life imprisonment without
2 the possibility of parole or a death sentence,
3 because you would have that right because of
4 the existence of that aggravating
5 circumstance. Do you understand that?

6 A. Yes, sir.

7 Q. It is my understand that generally, as a
8 type three juror, and I am not asking you
9 which ones but there are circumstances in your
10 mind that are severe enough that would warrant
11 the imposition of a death sentence; correct?

12 A. Yes, sir, depending on the circumstances.

13 Q. Correct, it's based on the circumstances.

14 A. (Affirmative nod).

15 Q. But there are also circumstances that may
16 be in your mind that while you may have the
17 option to impose a death sentence your choice
18 would be 'no, I think the most appropriate
19 sentence in this setting would be life
20 imprisonment without the possibility of
21 parole.' Is that correct?

22 A. That's correct.

23 Q. That's very important -- and you could
24 consider, and would consider, and weigh all
25 the evidence and decide which one you believe

1 to be the most appropriate in a particular
2 case; is that correct?

3 A. That's correct.

4 Q. That's important, too, because again
5 that's part of the -- that's what the law
6 requires you to do, but also there are other
7 aspects of this second phase. You're going to
8 hear evidence about aggravating circumstances,
9 you'll hear some other evidence from the State
10 about -- that you may want to consider and
11 would consider and weigh in determining the
12 sentence involving the person accused of the
13 crime. But you also would be instructed if
14 there are any mitigating circumstances in the
15 evidence that you would have to give
16 consideration to that, meaningful
17 consideration -- that's not just to say 'Okay,
18 I've looked at it.' You have to think about
19 it and weigh those mitigating circumstances
20 before deciding what you believe to be a fair
21 sentence. Those things -- some of them are
22 provided by law, some of them are nonstatutory
23 but -- such as the person's age, the person's
24 upbringing, what happened -- some things that
25 may have happened in their childhood that

1 could have affected or could be an explanation
2 -- not a justification, obviously, or any
3 excuse for it but just by way of explanation
4 that would be would be helpful in determining
5 and weighing between the two. Addiction is
6 another. That type of thing. There are a
7 number of them that the court would give you.

8 From what you've said, it's my
9 understanding that if those are present that
10 you would be able to give meaningful
11 consideration to those as well before you'd
12 determine a sentence?

13 A. Oh, yes, sir.

14 Q. And that's important because you should do
15 that.

16 A. Yes, sir.

17 Q. In all criminal disputes, as I told you on
18 Friday, people accused don't have to prove
19 anything. They don't have to prove their
20 innocence. Do you understand that?

21 A. Yes, sir.

22 Q. In fact, they don't even have to present
23 any evidence if they don't want to. That's up
24 to -- that's up to them. Of course, the court
25 would instruct you that you can't use that

1 against them. That would be either in the
2 first or the second phase in that abstract
3 case. Would you have any problem following
4 that instruction?

5 A. No, sir.

6 Q. So if there weren't any mitigating
7 circumstances in evidence for you to consider,
8 you couldn't use that against the defendant
9 and you would not do that, would you?

10 A. No, sir.

11 Q. And that's important, too, Ms. Ancrum,
12 because another part of the instruction would
13 say, in addition to all the things that I've
14 told you while you could consider -- and,
15 please, understand that the court would never
16 tell you that you have to return the death
17 penalty. It would tell you that if
18 aggravating circumstance are present that you
19 may consider it; and you may do it if you
20 choose to do it, but you don't have to. It's
21 up to you, in other words.

22 A. (Affirmative nod).

23 Q. You'd have to weigh it all and decide
24 which one is the best. Would you have any
25 problem following that?

1 A. No, sir.

2 Q. It would further say that even you as a
3 juror have the right to return a life
4 sentence, even though you could impose a death
5 sentence, for no reason at all if you choose
6 to. Do you understand that?

7 A. Yes, sir.

8 Q. And you could consider that, as well?

9 A. (Affirmative nod).

10 Q. Is that right?

11 A. Yes, sir. That's right.

12 Q. And, again, none of those things are
13 controlling you or telling you what you have
14 to do but merely are matters that you would
15 have to consider in making that ultimate
16 determination. Do you understand that?

17 A. I understand that.

18 Q. And you could do that -- consider it all
19 and ultimately make that decision, in your
20 opinion?

21 A. Yes, sir.

22 Q. And you could be fair and impartial in
23 performing that task?

24 A. Yes, sir.

25 Q. Let's look for a moment in this case.

1 We will leave the abstract now and move on.

2 Okay?

3 A. Okay.

4 Q. You mentioned that you didn't have any
5 problem with the principle of law that I told
6 you about, that persons who are accused of
7 committing criminal offenses are presumed
8 innocent. You believe in that principle of
9 law, is that correct?

10 A. Yes, sir.

11 Q. As I mentioned, that is an active
12 presumption. That means that we have to --
13 people that are accused, we have to actively
14 presume that they are innocent. That has to
15 remain until the State presents evidence, if
16 you were on a jury, beyond a reasonable doubt
17 that would cause you to change your mind. Do
18 you understand that?

19 A. Yes, sir.

20 Q. But until then you have to see the person
21 as innocent, do you understand that?

22 A. Yes, sir.

23 Q. Do you have any problem today as Mr.
24 Dickerson sits here? Do you believe that he
25 is innocent of these charges?

1 A. Innocent until proven guilty.

2 Q. Proven otherwise?

3 A. (Affirmative nod), otherwise.

4 Q. Until you as a jury have deliberated and
5 you're convinced beyond a reasonable doubt as
6 to each element of those charges?

7 A. The evidence, yes, sir.

8 Q. And you believe, based on what you've
9 heard, that there would be nothing in this
10 case that would prevent you at the appropriate
11 time -- in other words, starting with an open
12 mind, keeping an open mind and not changing
13 that position until you were instructed to
14 begin your deliberations, but you believe that
15 based on what you've heard that you would be
16 able to sit, listen to the evidence, consider
17 the evidence, evaluate that evidence, decide
18 the true facts and then take the law as I gave
19 it to you and apply it fairly and impartially
20 to the facts, so that your decision would be
21 fair to both sides?

22 A. Yes, sir.

23 THE COURT: Thank you, ma'am.

24 Please answer any questions that the attorneys
25 may have. Mr. Bloom?

1 VOIR DIRE EXAMINATION

2 BY MR. BLOOM:

3 Q. Good morning, Ms. Ancrum. My name is Jeff
4 Bloom and along with Andrew Carroll, who is
5 attending to other duties in the case right
6 now, we represent William Dickerson. I just
7 have a few followup questions from what Judge
8 Dennis asked you. Okay?

9 A. Okay.

10 Q. If we had met after work, knew each other
11 and we were just kind of chatting, having a
12 Diet Dr. Pepper or a coffee and something came
13 on the TV news about the death penalty and
14 that topic came up and I just turned to you
15 and said, 'What do you think of that', what's
16 your -- what is your general thought of the
17 death penalty?

18 A. I think I need to get up and be excused --
19 (laughs). Do you mean if someone asked me
20 that afterwards or before we ---

21 Q. I am not talking about this case. I am
22 just talking about the general topic of the
23 death penalty.

24 A. Okay.

25 THE COURT: Ms. Ancrum, that's

1 probably one of the most astute responses that
2 I've heard in three days. That was very good.

3 EXAMINATION CONTINUED

4 BY MR. BLOOM:

5 Q. I am just talking in general, not this case
6 but just in general, just to kind of generate
7 the topic of the death penalty in general.

8 What would your opinion be?

9 A. If I hear it on the News?

10 Q. Just your opinion about the death penalty
11 in general?

12 A. I'm not there until -- based on the
13 accusation, I'd have to hear the case and I'd
14 have to agree with what all the jurors decide
15 because I am not the only one to, uh, hear all
16 the evidence.

17 Q. So you would look at it on a case by case
18 basis?

19 A. Case by case, (affirmative nod).

20 Q. You don't have an opinion either -- you
21 know, some ---

22 A. No, sir.

23 Q. --- folks are for the death penalty in
24 every case. That's not you?

25 A. No, sir.

1 Q. And some folks are for life without parole
2 in every case?

3 A. No, sir.

4 Q. I think Judge Dennis explained to you a
5 lot about the second phase where a jury
6 decides the punishment, life without parole or
7 the death sentence. You understand that
8 before the jury ever gets there that they've
9 already found a person guilty of that malice
10 murder -- someone did it, meant to do it, with
11 malice, meanness, an evil spirit, they got the
12 right person beyond a reasonable doubt, not
13 accident, not self-defense, not manslaughter
14 where you catch someone in bed, it's not
15 insanity.

16 You've got someone convicted of a malice
17 murder and that's what we are talking about
18 when we decide between the ultimate punishment
19 of life without parole and the death sentence.

20 I take it from your answers to me, as well
21 as to Judge Dennis, that you're not one of
22 those folks that even if you found someone
23 guilty of that malice murder -- that mean
24 killing -- that you're automatically going to
25 vote for the death sentence.

1 A. No, sir.

2 Q. Okay. You are still going to want to ---

3 A. I'm still going to wait.

4 Q. Okay. Good. I just want to talk next --

5 briefly, Judge Dennis talked to you about

6 mitigating circumstances. That's a fancy

7 legal phrase. Let me give you some examples.

8 Oftentimes in that phase --- of course the

9 jury hears about the crime itself, you

10 understand that?

11 A. (Affirmative nod).

12 Q. Then they hear more information, bad

13 information about stuff, maybe good

14 information and they may hear information that

15 has nothing to do with the crime. I think

16 Judge Dennis gave you some examples -- such as

17 how a person is raised, their childhood, their

18 upbringing, possible drug addictions, mental

19 health issues, and those are all things that

20 you could listen to?

21 A. (Affirmative nod).

22 Q. Those types of issues, right?

23 A. Yes, sir.

24 Q. Because you understand that some people

25 say, 'You know what? I don't want to hear

1 about how someone was raised or all that other
2 stuff.' But that is something that you can
3 listen to and ---

4 A. Yeah, I could listen to it.

5 Q. --- give meaningful consideration to it?

6 A. Oh, yes, sir.

7 Q. You can see why that would be important
8 for a jury to ---

9 A. Important. Yes, sir.

10 Q. --- consider in deciding the ultimate kind
11 of punishment, or life without parole?

12 A. Yes, sir.

13 Q. And I think you clearly understood but
14 again I have to ask. Judge Dennis instructed
15 you that the death penalty is never required.
16 Do you understand that?

17 A. Correct.

18 Q. That if once you've heard all the evidence
19 and the circumstances, both mitigating
20 circumstances and aggravating circumstances,
21 and you've followed the judge's instruction on
22 the law, it is totally up to you whether you
23 pick the ultimate punishment or life without
24 parole. Do you understand that?

25 A. I do.

1 Q. The law never tells you that you've got to
2 pick one?

3 A. Yes, sir.

4 Q. And what the law calls that is your own
5 individualized, reasoned moral judgment. Can
6 you accept that?

7 A. Yes, sir.

8 Q. After you had heard all the evidence, and
9 you'd listened and followed Judge Dennis'
10 instructions on the law, you'd gone in the
11 jury room and debated with the other eleven
12 jurors and discussed it, they'd listened to
13 you, you'd listened to them, could you come to
14 your own individualized, reasoned moral
15 judgment?

16 A. Oh, yes, sir.

17 Q. And if eleven jurors were going one way
18 and you had made your own moral individualized
19 reasoned judgment, could you stand your
20 ground?

21 A. Oh, yes, sir.

22 Q. You wouldn't just give up your vote and
23 say, you know, 'it's late, I'm hungry, I want
24 to go along to get along.'

25 A. Oh, noooo.

1 Q. You didn't strike me as that kind of
2 person but you understand that I've got to
3 ask.

4 A. Oh, yes.

5 Q. You'd ask the other jurors to respect your
6 vote ---

7 A. Yes, sir.

8 Q. --- in that regard, and you would respect
9 theirs?

10 A. I would. Yes.

11 MR. BLOOM: Thank you so much.

12 THE COURT: Mr. Durant?

13 VOIR DIRE EXAMINATION

14 BY BRUCE DURANT:

15 Q. Good morning, Ms. Ancrum. My name is
16 Bruce Durant. I'm the Deputy Solicitor. This
17 is Scarlet Wilson, she is the Solicitor. This
18 is Mr. Rutledge Durant. Together we will be
19 handling this case for the State.

20 I will be very brief. I noticed on your
21 questionnaire that you like C.S.I. and ---

22 A. Um-humm.

23 Q. I kind of like C.S.I. but I want to
24 understand, do you think true life is like
25 C.S.I.?

1 A. Oh, no, that's entertainment.

2 Q. That's the answer I wanted to hear.

3 A. It's not true.

4 Q. Secondly, you know, and you've already
5 answered this question, I know. As Mr. Bloom,
6 said, some people are over here (hand
7 gesture), you know. If there is a murder,
8 they are always opposed to the death penalty.

9 Then you have another group that is always
10 over here (hand gesture in opposite direction)
11 who are always going to impose life
12 imprisonment without the possibility of
13 parole.

14 You are somewhere in between there, is
15 that correct?

16 A. Yes.

17 Q. Where do you think you would be in between
18 those two?

19 A. Well, that depends on the evidence.

20 Q. Depends on the case?

21 A. The case, (affirmative nod).

22 Q. But in the appropriate case, if we were to
23 bring the appropriate case to you, could you
24 sign your name to a verdict form requiring
25 someone to be put to death?

1 A. I can.

2 BRUCE DURANT: Thank you very
3 much. I have nothing else.

4 THE COURT: Anything else, Mr.
5 Bloom?

6 MR. BLOOM: Nothing further, Your
7 Honor.

8 THE COURT: Ms. Ancrum, if you
9 would step out just for a moment, please, we
10 will get right back to you.

11 JUROR NUMBER 4: Sure.

12 (JUROR NUMBER 4 EXITS COURTROOM)

13 THE COURT: I find Ms. Ancrum to be
14 qualified, any objection from the State, Mr.
15 Durant?

16 BRUCE DURANT: No, sir.

17 THE COURT: Any objection from the
18 defense?

19 MR. BLOOM: No, sir.

20 THE COURT: Please ask her to step
21 in.

22 (JUROR NUMBER 4 ENTERS COURTROOM)

23 THE COURT: Ms. Ancrum, thank you
24 so much. I find that you're qualified to be a
25 member of the panel from which we will select

1 our jury.

2 That will take place in the morning
3 at 9:30, need for you to be back here in the
4 morning at 9:30. Come direct to this
5 courtroom. Just take a seat out there and
6 then we will select the jury. Please be
7 prepared, if necessary, to stay because we're
8 going to start the trial portion of this
9 proceeding tomorrow.

10 Until then and until you have been
11 dismissed from this case, please remember that
12 you still are not at liberty to discuss this
13 case with anyone or permit anyone to talk with
14 you about it. Also, please continue not to
15 watch any news programs about it or read any
16 news accounts. As you stated, if something
17 comes on you'll leave the room.

18 JUROR NUMBER 4: Yes, sir.

19 THE COURT: Thank you very much.
20 Have a great day and we'll see you in the
21 morning.

22 (JUROR NUMBER 4 EXITS COURTROOM)

23 THE COURT: Juror Number 72,
24 the last on in this panel.

25 BRUCE DURANT: Your Honor, when

1 is the juror that we missed yesterday, is she
2 coming back today?

3 THE COURT: Yes, sir, 2:30. She is
4 in the 2:30 panel, so this afternoon we will
5 have two panels of seven, if necessary. But,
6 as we stated, that juror will fall into her
7 normal place insofar as strikes are concerned.

8 (JUROR NUMBER 72 ENTERS COURTROOM)

9 THE COURT: Good morning, Ms.
10 Dobson. How are you?

11 JUROR NUMBER 72: I'm good, how are
12 you?

13 THE COURT: I'm great, ma'am.
14 Appreciate your patience. We are not going to
15 detain you too much longer. There are some
16 questions that I need to ask of you and these
17 questions really are followup to what we
18 talked about on Friday.

19 None of these questions that you hear
20 from me or from the attorneys -- the attorneys
21 will have an opportunity as well to ask you
22 questions -- have any correct answers to them.
23 We certainly are not here to challenge any
24 philosophies or beliefs that you have. You
25 are entitled to those. Please do not feel

1 that you have to defend them for any reason
2 because you're entitled to those. Nor are we
3 here to invade any privacy that you have.

4 We are trying to -- these questions
5 are really to assist you and us to determine
6 whether you can be a fair and impartial juror.
7 Okay?

8 JUROR NUMBER 72: Okay.

9 THE COURT: All that we ask you to
10 do is to be candid in your responses, truthful
11 and completely answer the questions. Will you
12 do that?

13 JUROR NUMBER 72: I will.

14 THE COURT: Thank you. I would
15 remind you that you're still under oath in
16 this matter.

17 JUROR NUMBER 72: I understand.

18 REGINA DOBSON, being duly sworn to
19 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. Would you state your full name for the
24 record, please?

25 A. Yes. Regina Dobson.

1 Q. Ms. Dobson, since we were together on
2 Friday, have you talked with anyone, permitted
3 anyone to talk with you or have you talked to
4 anyone, permitted anyone to talk to you about
5 this case or talk about it in your presence?

6 A. No.

7 Q. Have you watched any news accounts or read
8 any newspaper articles about it?

9 A. No.

10 Q. On Friday, I mentioned a number of names
11 but I failed to mention two names that I need
12 to ask you about. Are you related by blood or
13 marriage, have any business dealings with or
14 socially or casually acquainted with or have
15 any dealings with Jeff Osborne or Matt Casey?

16 A. No.

17 Q. You were given a sheet when you came in
18 that sets forth three types of jurors, have
19 you had a opportunity to review that sheet?

20 A. Yes, sir, I have.

21 Q. Which type most accurately describes you?

22 A. It's a hard decision but I -- I've been
23 thinking about it and I think I'd have to be a
24 number three.

25 Q. I appreciate that, I appreciate that

1 you've given serious thought to that. That is
2 precisely what we want you to do. It is a
3 difficult question because obviously -- let's
4 set the stage of what that sheet is dealing
5 with.

6 That would be case in which a jury had
7 been empaneled to serve as a judge with the
8 presiding judge in that case and that jury
9 would have a dual responsibility; that is, to
10 first determine whether or not the State had
11 met its burden of proof on the charge itself
12 but, secondly, they would be participating in
13 the sentencing.

14 That is not normally the case in this
15 state because normally the jury is empaneled
16 to decide whether or not the State can meet its
17 burden of proof on the charge. If the jury --
18 if that jury, if you would have been on that
19 jury that's on that sheet that you've read,
20 that jury would have already made the
21 determination. They would have said, 'yep,
22 we've considered it.' They'd heard all the
23 evidence, they'd received the charge on the
24 law and they'd gone back and they'd evaluated
25 that evidence and said the State met its burden

1 of proof and convicted that person of murder.

2 That means they've found beyond a
3 reasonable doubt the following: that the
4 State accused the right person, no question
5 about that beyond a reasonable doubt; that the
6 crime was murder, which is the killing of
7 another with malice aforethought, which means
8 that at the time they killed them that they
9 had malice in their mind, they were motivated
10 by an evil spirit, evil heart. There wasn't
11 any reason for doing it, they just -- they
12 wanted to kill somebody and they did it. You
13 would have already ruled out, because there
14 wouldn't have been an reason, because you
15 could have decided that it was murder and not
16 -- in South Carolina the lesser offenses of
17 killing another would be manslaughter and
18 involuntary manslaughter. In some states it
19 is called murder second degree, third degree,
20 fourth degree. We don't have that in this
21 state.

22 Those don't apply because you'd ruled that
23 this was a murder, an intentional killing, so
24 there's no question about it.

25 You now were at the point where you

1 were about to embark on the second phase,
2 which is not customary, because in a normal
3 setting on that sheet, the jury having been
4 decided, the jury would be excused -- we'd be
5 happy for you to remain, but the presiding
6 judge would then impose the sentence based on
7 the conviction. The presiding judge at that
8 time, in that setting if there weren't
9 anything else but just a murder could only
10 impose -- the maximum sentence would be life
11 imprisonment without the possibility of
12 parole. He couldn't even consider a death
13 sentence. Okay?

14 A. (No verbal response).

15 Q. It would have to impose life without
16 parole but that would be the maximum that it
17 could impose; or, it could be less than that,
18 that judge would have that option. But the
19 judge would never be able to consider life
20 imprisonment without the possibility of
21 parole.

22 Because this is a case that has been set
23 forth as where the jury has been empaneled to
24 serve, the State has said that there are
25 circumstances that exist that raise the level

1 in this case, so to speak. This is not your
2 typical murder. There are certain
3 circumstances that exist that would justify a
4 death sentence and we're asking for that.
5 That is part of what that second phase is
6 about, they have to prove that.

7 They also present evidence in the second
8 phase to assist the jury, evidence that will
9 be important in making the determination of
10 what is the appropriate sentence. That will
11 then be heard in the second phase. You
12 wouldn't have heard any of that in the first
13 phase.

14 If I am understanding your statement that
15 you're a type three juror, at that moment
16 you're about to start the second phase in this
17 abstract case, you don't have any
18 predetermination of what the appropriate
19 sentence should be. Is that correct?

20 A. Correct.

21 Q. Now, obviously types one and two at that
22 point do not have that open mind that is so
23 important for a juror to possess before they
24 start any phase. Would you agree with that
25 statement?

1 A. Yes, sir.

2 Q. Because they have a predetermination and
3 that's inconsistent with what a juror should
4 be. Would you agree with that?

5 A. Yes, sir.

6 Q. The second phase, as I mentioned to you,
7 one aspect of it, and it is a factor to be
8 considered in fashioning a sentence, because
9 it allows you to -- it may allow you to
10 consider a death sentence if the State proves
11 an aggravating circumstance beyond a
12 reasonable doubt.

13 Our law defines those, sets them forth and
14 the trial judge would have given you those
15 aggravating circumstances. Some of them, just
16 for the sake of discussion here about this
17 abstract case, that case may have involved the
18 killing of a police officer or the killing of
19 a child. If those situations exist and they
20 prove that beyond a reasonable doubt then a
21 jury in this state in that setting, set forth
22 in that sheet, would have the option of
23 considering a death sentence but they have to
24 prove that first; because if they fail to
25 prove that aggravating circumstance, the jury

1 can't even consider a death sentence. The
2 only sentence that you could return, without
3 an aggravating circumstance, would be life
4 imprisonment without the possibility of
5 parole. The reason being, that's what is
6 necessary to elevate it. Okay? Do you
7 understand that?

8 A. Yes, sir.

9 Q. Would you have any problem following that
10 instruction?

11 A. No. I don't think it's easy but I ---

12 Q. I understand that.

13 A. I think it would be a lot easier if the
14 judge decided the sentence and ---

15 Q. I understand that. I assure you, having
16 been the judge that has to pick the sentence,
17 it's not easy even then.

18 A. I know.

19 Q. It never is, it's nothing that anybody
20 derives any great pleasure from doing.

21 A. I understand.

22 Q. But I'm glad you said that and put it in
23 that vein, because that's precisely what you
24 are as a judge. The oath that we take is that
25 we are going to do things that are consistent

1 with our responsibility and the roles that we
2 have to -- the roles that we play in these
3 proceedings.

4 A. I understand.

5 Q. The tasks that are assigned to us.

6 A. Okay.

7 Q. Some of them aren't pleasant but we have
8 to be willing -- in order to step forward and
9 say, 'I'm willing to do that, you have to be
10 willing to say 'I'll endure that fact that it
11 is unpleasant, because I'm required to do that
12 by law.' You would be required to do that if
13 you were on the jury. Do you understand that?

14 A. I understand.

15 Q. Am I to understand you that while it would
16 be unpleasant that you could still perform
17 that task?

18 A. I would.

19 Q. Let's go on. I would instruct you also
20 that if you find beyond a reasonable doubt and
21 you get to that point and the jury has
22 concluded that, just for the sake of our
23 discussion in this abstract case, the
24 instruction would say then and only then may
25 you consider the death sentence. But it

1 doesn't mean that you have to return a death
2 sentence. In other words, now you have the
3 option. You have life imprisonment without
4 the possibility of parole on the one hand and
5 the death sentence on the other.

6 You have to decide between the two which
7 one is the most appropriate based on all the
8 evidence that you would have heard, both the
9 nature of the crime which you heard in the
10 first part, and the evidence that you heard in
11 the second part that deal specifically with
12 the sentence that would be appropriate.

13 Am I understanding that you could follow
14 that instruction, as well, that you could --
15 that you could evaluate the evidence and make
16 a decision based on the circumstances in that
17 case which one you believe to be appropriate?

18 A. Yes, sir, as a part of the jury.

19 Q. That's correct. You are performing this
20 task as a juror, part of the jury, as a judge,
21 as a member of the panel which is the
22 collective judge.

23 A. I understand.

24 Q. Because you have one vote, with eleven
25 others. Okay?

1 A. (Affirmative nod).

2 Q. But the question that I have is, if after
3 deliberating in that case the jury after
4 evaluating all the evidence decided that based
5 on the circumstances, based on everything we
6 believe that the death sentence is the most
7 appropriate. Do you believe and you know of
8 circumstances, and I'm not asking you to tell
9 me what they are but there are circumstances
10 in your mind today that if those were to be
11 established would warrant your -- notwith-
12 standing that you don't want to -- but would
13 warrant that 'yes, I think as a juror, as a
14 judge that's the most appropriate sentence',
15 and you could do that?

16 A. Yes, sir.

17 Q. And you would do that if you were on that
18 panel ---

19 A. Yes, sir.

20 Q. --- and came to that point?

21 A. I would.

22 Q. That would mean that as a part of
23 performing the task as a juror, that if the
24 jury -- that if the verdict of the jury was
25 the death sentence, there will be a form

1 submitted by the court that you would have to
2 sign that says 'we impose' -- 'we vote to
3 impose the death sentence' and you'd have to
4 put your name as a juror. Do you understand
5 that?

6 A. (Affirmative nod).

7 Q. You'd have to sign that.

8 A. (Affirmative nod).

9 Q. You would perform that task, as well?

10 A. I would. I didn't know about that, but I
11 would.

12 Q. Yes, ma'am, and that's precisely why I
13 tell you, because it's not only that vote,
14 which obviously you did when you confirmed
15 that you -- most of the time the jury is
16 polled in those situations. That means that
17 when they come in the clerk will ask you --
18 most of the time they ask that the jury be
19 polled and the juror says 'yes, that's my
20 decision and it is still my decision.'

21 But it goes a little bit further when you
22 have to sign a form that says "I vote for
23 death." But you would be able to perform that
24 task?

25 A. Yes, I would.

1 Q. Likewise, given that same situation, while
2 you would have the option, you can foresee and
3 you can visualize circumstances and think of
4 circumstances where you may have the option to
5 impose a death sentence but after evaluating
6 it your choice would be that the most
7 appropriate sentence would be life
8 imprisonment without the possibility of parole
9 instead of the death sentence?

10 A. Yes, sir.

11 Q. And you could weigh it and make a
12 determination as to which one you thought was
13 the most appropriate?

14 A. (Affirmative nod). Yes, sir.

15 Q. Okay, let's talk about some of the
16 evidence that you would hear in addition to
17 the aggravating circumstances. You'd hear
18 some other evidence that would be helpful in
19 fashioning a sentence concerning the
20 defendant, the person accused.

21 You also may hear something that we call
22 mitigating circumstances. Our law defines a
23 number of those by statute. Some of them are
24 not statutory, they are just commonsense
25 mitigating circumstances that you would

1 certainly be expected to apply your life's
2 experience and your knowledge in that regard.

3 Some of the statutory mitigating
4 circumstances would be addictions, were they
5 suffering from any impairment because of
6 taking some drug or alcohol; which would not
7 be an excuse for it, but may give the jury
8 some explanation of why they may have acted
9 the way that they did. How they were raised
10 as a child, childhood problems, development
11 problems, mental or emotional issues that they
12 may have been fighting all of their lives,
13 that type of evidence which we lump into
14 calling "mitigating circumstances".

15 Part of the instruction would be that if
16 there are any that you would be instructed to
17 give meaningful consideration to those issues,
18 as well. Would you, if you were on a jury,
19 carefully consider all of those issues also in
20 deciding what sentence is most appropriate?

21 A. Yes, I would.

22 Q. Okay. I would also instruct you through
23 out that persons accused don't have any
24 responsibility to prove anything, they don't
25 have an obligation to prove their innocence,

1 they don't have to present any evidence. They
2 have no duty whatsoever. Do you understand
3 that?

4 A. Yes, sir.

5 Q. And I would further instruct you that if
6 they if they chose not to, then the jury can't
7 use that against them in any way. In fact,
8 they don't even have to testify. If they
9 don't, you can't even consider that. Would
10 you have any problems following that
11 principle?

12 A. I wouldn't. I understand.

13 Q. You would be able to follow that and set
14 aside any feelings that you have and say
15 'nope, that's not for my consideration -- I'm
16 not to consider that.'

17 A. Right.

18 Q. So if in the second phase there are no
19 mitigating circumstances, you can't hold that
20 against a person. Do you understand that?

21 A. Yes.

22 Q. And you would not do that. Is that
23 correct?

24 A. Yes, sir.

25 Q. And that's important because that's

1 consistent with the law.

2 A. Yes, sir.

3 Q. But there is something else, too, that
4 you'd hear as a juror. In addition to
5 everything else that I've told you, I would
6 also tell you that you have the right as a
7 juror, as a judge in that case when you're
8 considering between life imprisonment without
9 the possibility of parole and a death
10 sentence, to decide to impose life
11 imprisonment without the possibility of parole
12 for no reason at all. That's your right.

13 So, in other words, if you chose to, you
14 have the right to do so. Do you understand
15 that?

16 A. Yes, sir. Right. You mean, it would be
17 my opinion that ---

18 Q. If you as a juror -- if you as one of the
19 twelve said, 'You know what? We can't give
20 any rationale reason for this but we just feel
21 that life imprisonment without the possibility
22 of parole is the best sentence.' If you
23 choose to do that, you have that right. Do
24 you understand that?

25 A. I do.

1 Q. Now, that's not saying what you have to
2 do. It's just telling you that would be an
3 option for you, as well. You'd be able to
4 consider that carefully and evaluate that
5 consistent with the facts and make the proper
6 determination in your mind at that time. Is
7 that right?

8 A. Yes, sir.

9 Q. And you would be fair and impartial in
10 performing that?

11 A. I would.

12 Q. You also would be willing to set aside all
13 of your personal beliefs -- just as you just
14 said, 'I wouldn't want to do that' but you'd
15 set that aside, just by way of illustration,
16 and perform that task. Is that correct?

17 A. Yes, sir.

18 Q. Okay. Let's talk for a moment -- now
19 forget about the abstract case and let's focus
20 now on Mr. Dickerson.

21 You will remember that I told you that Mr.
22 Dickerson was accused of a number of offenses
23 and I told you that he, as anybody accused of
24 any offense in this state and this country, is
25 presumed innocent. I believe that you didn't

1 have any problem with that principle of law.

2 A. No, sir.

3 Q. That's a very active presumption. By
4 that, I mean that if we see people who are
5 accused of criminal offenses, we have to
6 actively see them as innocent. Do you have
7 any problem as you look at Mr. Dickerson today
8 believing that he is innocent of these
9 charges?

10 A. I don't.

11 Q. And you understand that that position,
12 that state of mind cannot change until and
13 unless, if you were on the jury, the State --
14 and you had been instructed to begin your
15 deliberations. Then after considering all the
16 evidence and considering the law, you were
17 satisfied and convinced beyond a reasonable
18 doubt that the State had convinced you
19 otherwise; that is, had established each
20 element of the crime involved? Not until then
21 could you change that position. Do you
22 understand that?

23 A. (Affirmative nod), -- at the end?

24 Q. Whenever you'd considered all the evidence
25 and you'd decided 'yes, they've proved that

1 beyond a reasonable doubt and now I believe
2 that he is the person that did the crime.'
3 You've made your decision. Then you could
4 change your mind. Do you understand that?
5 That's what it means. Until and unless the
6 State proves him guilty beyond a reasonable
7 doubt. That's what that means. Okay?
8 A. Okay. I do.
9 Q. And you would be able to honor that, as
10 well?
11 A. I could.
12 Q. And you have not heard anything in this
13 case that would give you any concern about
14 your ability to fairly and impartially apply
15 your common sense, your sense of logic and
16 reasoning. Is that correct?
17 A. (No verbal response).
18 Q. Thus far?
19 A. (Affirmative nod), that's correct.
20 Q. And you have an open mind, totally?
21 A. Yes, sir.
22 Q. Okay. You're willing to follow the law
23 that I give you and to set aside all your
24 personal feelings, strong feelings and
25 philosophies and any beliefs that you may have

1 as to what the law should be or might be?

2 A. Yes, sir.

3 Q. Thank you.

4 THE COURT: Please answer any
5 questions that the attorneys may have. Mr.
6 Durant?

7 VOIR DIRE EXAMINATION

8 BY BRUCE DURANT:

9 Q. Good morning, Ms. Dobson. My name is
10 Bruce Durant. I'm the Deputy Solicitor. This
11 is Scarlet Wilson, she is the Solicitor. This
12 is Mr. Rutledge Durant here, as Assistant in
13 our office.. Together we will be handling
14 this case for the State.

15 Thank you for being here this morning. I
16 just have a couple of question on followup to
17 what Judge Dennis asked you about.

18 As he was going through the colloquy, I
19 understand that you are kind of a middle-of-
20 the-road juror. Is that correct?

21 A. I guess -- yes, I guess. I would look at
22 both sides.

23 Q. Okay. Because you have some people, you
24 know, that think the death penalty should be
25 imposed in every case of murder and then you

1 have the other side that says the death
2 penalty should never be imposed, that it
3 should always be life without parole.
4 Where do you put yourself in that spectrum?

5 A. It would depend on the crime.

6 Q. It just depends on the case?

7 A. (Affirmative nod).

8 Q. Okay. As the judge told you, in a case
9 just as this there are generally two trials.
10 You have a trial to determine whether a
11 defendant is guilty or innocent.

12 If the jury determines that he is guilty,
13 then you have a second trial to determine what
14 the punishment should be. Do you understand
15 that?

16 A. I do.

17 Q. As I understand your answers to the Judge,
18 you're willing to reserve judgment until
19 you've heard the second part of the trial, as
20 well; is that correct?

21 A. Right.

22 Q. In other words, you're not going to make
23 up your mind after hearing the first part?

24 A. (No verbal response).

25 Q. Is that correct?

1 A. That's correct.

2 Q. You'll be able to consider aggravating
3 circumstances that the State may prove, is
4 that correct?

5 A. (Affirmative nod).

6 Q. And you would be able to consider
7 mitigating circumstances that a defendant
8 might prove, but that he is not required to;
9 do you understand that?

10 A. Yes.

11 Q. In other words, you'd want to hear the
12 whole case?

13 A. I would.

14 Q. And if after hearing the whole case -- and
15 -- one other question, assuming -- because the
16 defendant is never required to prove anything
17 in a court of law, do you understand that?

18 A. Yes, sir, I do.

19 Q. I believe Judge Dennis just told you that.

20 A. (Affirmative nod).

21 Q. Assuming that there were no mitigating
22 circumstances, you understand that you could
23 impose a sentence of life without parole just
24 as an act of mercy?

25 A. (No verbal response).

1 Q. Do you understand that?

2 A. I do.

3 Q. My last question is, could you as part of
4 a collective part of a jury in a capital case
5 sign your name to the verdict form requiring
6 that someone be put to death?

7 A. Yes. I think at the end if I went along
8 with it that I would be able to sign it.

9 Q. If that was the collective judgment of the
10 jury, you could sign that?

11 A. (Affirmative nod).

12 BRUCE DURANT: Thank you. I have
13 nothing further.

14 THE COURT: Mr. Bloom?

15 VOIR DIRE EXAMINATION

16 BY MR. BLOOM:

17 Q. Good morning, Ms. Dodson. How are you
18 today?

19 A. Well, thank you.

20 Q. My name is Jeff Bloom and along with
21 Andrew Carroll, who is out of the courtroom
22 right now, we represent William Dickerson. I
23 just have a few followup questions from what
24 Judge Dennis asked you.

25 A. Okay.

1 Q. If we were to just be talking about the
2 death penalty in general, not this case, what
3 would your opinion about the death penalty be?

4 A. It depends on what the crime was. There
5 are some things that might make it more for
6 the death penalty.

7 Q. I noticed on your questionnaire that when
8 you were asked that question that you wrote in
9 "for violent crimes".

10 A. (Affirmative nod).

11 Q. Of course, that's your opinion?

12 A. (Affirmative nod).

13 Q. I'm sorry, but she (court reporter) has to
14 take down 'yes', 'no' or whatever your answer
15 is.

16 A. I'm sorry, -- "Yes."

17 Q. Thank you, ma'am. You understand that
18 there are no right or wrong answers and we're
19 not here to question your opinion. We just
20 kind of need to know. You understand why
21 we're asking, don't you?

22 A. Yes, sir, I do.

23 Q. Now, you understood Judge Dennis when he
24 explained that murder of course is a violent
25 crime; right?

1 A. (Affirmative nod).

2 Q. Do you understand that?

3 A. Yes, I do.

4 Q. I think he explained it as someone who did
5 it, intended to do it, did it with malice,
6 meanness, mean-spirited, they got the right
7 person beyond a reasonable doubt, it was not
8 accident, not self-defense or manslaughter or
9 insanity. Someone set out to do it, they did
10 in, intended to do it with evil in their
11 heart. Of course, that's a violent crime.

12 A. (Affirmative nod).

13 Q. There are some folks who feel, 'You know
14 what? Once that has been proven to me, my
15 opinion is so strong that I can't listen to
16 whatever else is coming in. I am going to
17 have problems following the law and for that
18 type of violent crime, that type of malice
19 murder, I am going to vote for the death
20 penalty each and every time.'

21 We just kind of need to know if your
22 opinion is so strong -- if that's how you feel
23 or not.

24 A. Again, it would depend on how violent the
25 crime was and the circumstances of the crime.

1 Q. Okay. So if you found someone guilty of
2 that malice murder, are you going to
3 automatically vote for death at that point
4 before you get to that next phase?

5 A. No.

6 Q. Okay. The Judge also explained that once
7 the jury finds a person guilty -- and let me
8 back up, let me just clarify for a minute or
9 ask you a question. Are there some -- is your
10 opinion such that there are some violent
11 crimes where even if a murder didn't happen
12 you would still believe that the death penalty
13 might be ---

14 BRUCE DURANT: Objection.

15 THE COURT: She's answered that
16 question, Mr. Bloom, very specifically and I
17 am not going to let you inquire any further
18 than that. She has already said, and I asked
19 her specifically would she impose that -- if
20 you want to go back to the question that I
21 asked her, that's fine. For you to ask the
22 same question but I am not going to allow you
23 to -- you're delving into what specifically
24 are the ---

25 MR. BLOOM: She ---

1 THE COURT: She has already said
2 that -- what she said -- what I understood you
3 to say, ma'am, and maybe I misunderstood what
4 you were saying and I want to clarify it for
5 Mr. Bloom's sake because I might have heard it
6 incorrectly. As I understood it, because I
7 told you that -- we set the stage, so to
8 speak, in that abstract case. That if you had
9 -- if you were at the point where you had all
10 the evidence to consider and you had an
11 opinion, in this case, to impose the death
12 sentence or life without the possibility of
13 parole then you, depending on certain facts
14 and circumstances, could impose a life
15 sentence and not impose a death sentence,
16 vice-versa.

17 JUROR NUMBER 72: (Affirmative nod).

18 THE COURT: That's what I heard her
19 say. Thank you. So she has answered your
20 question.

21 MR. BLOOM: I may not have asked it
22 well.

23 EXAMINATION CONTINUED

24 BY MR. BLOOM:

25 Q. What I would like to ask you now, ma'am,

1 and I don't want you to tell me what they are,
2 but are there some types of crimes where you
3 think the death penalty might be warranted
4 even if a murder didn't occur?

5 THE COURT: Whoa, hold on. If a
6 murder didn't occur?

7 MR. BLOOM: Yeah. If I may be
8 heard, Your Honor? If I may be heard?

9 THE COURT: You may. I'd ask her
10 to leave -- Ms. Dobson, there's a matter that
11 I have to take up out of your presence, and I
12 have to do that without you present. If you
13 would step out just for a moment, please.

14 (JUROR NUMBER 72 EXITS COURTROOM)

15 THE COURT: Mr. Bloom?

16 MR. BLOOM: Judge, I am not trying
17 to stake out the juror -- if I may explain for
18 a minute. Her answer to the question, "What
19 is your opinion, if any, about the death
20 penalty?" is, quote, "Yes, for a violent
21 crime." All I am trying to inquire is if
22 this juror has a strong belief that the death
23 penalty ought to be available for some crimes
24 where a homicide does not even occur.

25 THE COURT: Why?

1 MR. BLOOM: Well, because it's a
2 strong opinion. It may not -- it wouldn't
3 necessarily ---

4 THE COURT: No, sir.

5 MR. BLOOM: --- disqualify her but
6 it would ---

7 THE COURT: No, sir.

8 MR. BLOOM: It's a strong ---

9 THE COURT: I appreciate that.

10 Frankly, Mr. Bloom, I appreciate it and I'm
11 honoring what the law says. A defendant has
12 the right to ask questions but I'm sitting
13 here and each time you've been doing the same
14 thing and there's really no reason to do that.
15 You go through exactly what I've gone through
16 and I think, 'then why do I do it?' I do it
17 because I have the threshold -- regardless of
18 what you have a right to do, I have to decide
19 whether this woman can comply with the law and
20 can comply with her oath as a juror. That's
21 why I go into the detail about the murder.

22 Why do you need to say all that
23 again? You're just repeating again and it's
24 just time-consuming. It's just you talking.
25 That's what I've been talking about. We need

1 to stop that. Okay? You need to reduce the
2 amount of just talking, because I know what
3 it's for. I understand the game, I understand
4 the gamesmanship. I am not suggesting that is
5 your motive but I understand that because I've
6 done the same thing, but I am telling you that
7 I want you to stop the repetition. Okay?

8 If you're telling me, 'Judge, you're
9 depriving me by talking about the crime', then
10 I will let you talk about it. But the problem
11 is, how can I make a threshold determination
12 unless I explain to her what a murder is? You
13 don't need to tell her it again if she has
14 already said. If she said something wrong and
15 I failed to catch it, then absolutely but
16 you've got to have something to trigger some
17 of this.

18 I don't find a violent crime when
19 we've been talking about murder and I've
20 already told her what murder is -- we'll
21 already told her that if there is no guilt of
22 murder then it's over. That ends it. Now,
23 if you want to ask that question, that's fine.
24 I don't have any problem with that, because
25 that would say that you can't get to it

1 indirectly. But I'm not going to allow you to
2 ask about a crime that is not a murder. There
3 is nothing that even -- there is nothing in
4 her answer that would suggest that. Okay?

5 MR. BLOOM: May I respond?

6 THE COURT: Absolutely.

7 MR. BLOOM: Thank you, Your Honor.

8 It is in two respects. One, I mean no
9 disrespect to the court by the answers (sic)
10 -- by the questions that I am asking.
11 Oftentimes these jurors are answering Your
12 Honor in a yes/no format. I am just trying to
13 see if I can elicit a little further
14 explanation about their beliefs. I am not
15 trying to stack out or to be repeti--, -- I
16 apologize if it is repetitious. I am just
17 trying to see if I can engage a response
18 beyond a mere yes or no to understand their --
19 -

20 THE COURT: Let me tell you how you
21 can do that: 'The Judge has explained murder
22 to you...' -- you don't need to say 'it is not
23 manslaughter...', I've already explained that
24 to them. That is repetition.

25 If she had demonstrated that she

1 didn't understand, then you're right but she
2 hasn't. Just ask a specific question. Are
3 you telling me that you can -- you state, for
4 instance, there's nothing that this juror has
5 said that she is the type of juror that would
6 automatically vote for the death sentence.
7 She has already said, 'I am not that type of
8 juror.'

9 Why do you say, 'You know, there are
10 types of jurors that automatically do.....' --
11 why do you say that? That's -- to be candid
12 with you, you are a father, too, why do you
13 even suggest that? You don't want that type
14 of juror. Why do you mention it?

15 You can say, 'You've said that you
16 don't automatically determine that. Is that
17 truly how you feel?' That just because you
18 have convicted a person of murder, you
19 wouldn't automatically have a -- she's already
20 said that once but that's fine, you can follow
21 up with that. You don't need to go stating
22 all the preliminary statements. I don't
23 think.

24 MR. BLOOM: In respect to this
25 specific juror, Your Honor, I am simply -- as

1 the last question I proposed, I am simply
2 trying to see if she has a strong belief that
3 the death penalty ought to be available for
4 people who don't commit homicides.

5 THE COURT: Why would you have that
6 reason?

7 MR. BLOOM: Well, it may not be a
8 strike for cause but I have to ---

9 THE COURT: That's fine. It's not
10 a strike for cause.

11 MR. BLOOM: Yes, sir, but it may
12 justify a peremptory strike if she has a
13 strong belief that the death penalty ought to
14 be awarded when it is not a homicide?

15 THE COURT: You know what? I even
16 wonder, to be candid with you, I -- I could
17 more understand why Mr. Durant would be
18 inquiring, because I really question whether
19 she is middle of the road. I don't think she
20 is. You know why? Because of her response to
21 me, "I really don't want to do that."

22 Why are you even asking a question?
23 I mean, you've got a person that I wrote down
24 that I think she is more life prone than death
25 prone. That's the way that I see this woman.

1 So what is it in the world that I am missing,
2 Mr. Bloom? What is it that triggers, that
3 justifies your exploring that? There is
4 nothing that I see that does that.

5 Based on that, I sustain the
6 objection. Okay?

7 MR. BLOOM: Thank you, Your Honor.

8 THE COURT: Thank you. Bring the
9 person in.

10 (JUROR NUMBER 72 ENTERS COURTROOM)

11 THE COURT: Thank you for your
12 patience, Ms. Dobson. That's just the way
13 that we have to do things. I hope that
14 doesn't upset you. Please understand that's
15 that separation that we have to observe
16 between the jury and the law. You don't have
17 anything to do with the law and if you're on
18 the jury we won't be in the jury room, so we
19 won't be listening to what you'all talk about
20 either. Okay?

21 JUROR NUMBER 72: Yes, sir.

22 THE COURT: Thank you, Mr. Bloom.
23 I appreciate your indulgence, as well.

24 MR. BLOOM: Thank you, Your Honor.

25 THE COURT: You may continue.

1 EXAMINATION CONTINUED

2 BY MR. BLOOM:

3 Q. Ma'am, I just have a few final, wrap-up
4 questions to ask you. If you were in such a
5 phase, trying to decide between the ultimate
6 penalty and life imprisonment without the
7 possibility of parole, after you'd heard all
8 the evidence, you'd heard all the
9 circumstances, listened to Judge Dennis's
10 instructions, the law, as you understand from
11 Judge Dennis, does not ever require a death
12 sentence. Do you understand?

13 A. (No verbal response).

14 Q. Did you understand his instruction to you?

15 A. I did.

16 Q. Okay. I ask that because what the law
17 does ask you to make is your own
18 individualized, reasoned moral judgment. Can
19 you accept that?

20 A. I can.

21 Q. And if you were with the other eleven
22 jurors, hearing all the evidence, all the
23 circumstances, listening to Judge Dennis's
24 instructions, had discussed and deliberated
25 with the other jurors, if you'd listened to

1 them and they'd listened to you and ultimately
2 at some point you come to your own
3 individualized, reasoned moral judgment but
4 eleven jurors were of a different view and you
5 -- you were by yourself, could you stand by
6 your own individualized, reasoned moral
7 judgment?

8 A. Uh -- yeah. I think the whole jury would
9 have to discuss ---

10 Q. Absolutely. I'm not suggesting otherwise.
11 Obviously everybody discusses and deliberates
12 but you understand that some people, if it
13 reaches a point in time when it's time to go
14 home to dinner or whatever, they are tired,
15 they kind of go along to get along. I guess
16 what I am asking just simply is, you wouldn't
17 give up your vote just to go along to get
18 along?

19 A. No.

20 Q. You would ask them to respect your own
21 vote and moral judgment?

22 A. I would.

23 Q. And you would respect theirs?

24 A. (Affirmative nod).

25 Q. Thank you, ma'am. I have one very simple

1 question. Here, I notice that you at one
2 point worked at AMI (phonetic) Care Systems?

3 A. ANMED (phonetic).

4 Q. Okay. There may be one other eligible
5 juror, by the name of Mary Cox, who may work
6 there also. Do you know her?

7 A. I don't.

8 Q. A younger woman?

9 A. (Negative gesture).

10 Q. Okay.

11 A. She might work in another office, they
12 have like three.

13 Q. All right. I didn't know that.

14 MR. BLOOM: Thank you ma'am.

15 THE COURT: Thank you, Mr. Bloom.

16 Any additional questions, Mr. Durant?

17 BRUCE DURANT: No, sir.

18 THE COURT: Thank you so much, Ms.

19 Dobson. I am going to ask that you step out
20 again just for a moment. We will be with you
21 momentarily.

22 JUROR NUMBER 72: Okay.

23 (JUROR NUMBER 72 EXITS COURTROOM)

24 THE COURT: I find Ms. Dobson to be
25 qualified. Any objection from the State?

1 BRUCE DURANT: No, sir.

2 THE COURT: Any objection from the
3 defendant?

4 MR. BLOOM: No, sir.

5 THE COURT: Thank you. If you
6 would, bring her in please.

7 (JUROR NUMBER 72 ENTERS COURTROOM)

8 THE COURT: Thank you so much, Ms.
9 Dobson. I appreciate you being here and I
10 appreciate your participation in this process.
11 You've been found to be qualified to be a
12 member of the panel from which we will select
13 our jury.

14 That will take place in the morning
15 at 9:30, need for you to be back here in the
16 morning at 9:30. Come directly to this
17 courtroom. Just take a seat out there in the
18 audience, you will see some of your fellow
19 jurors about there, and then we will select
20 the jury. Please be prepared, if necessary,
21 to stay because we're going to start the trial
22 portion of this proceeding tomorrow. We will
23 start right away with that. Okay?

24 JUROR NUMBER 72: But I may not be
25 picked. Right?

1 THE COURT: You may not be. I don't
2 know. You're just a member of the group.

3 JUROR NUMBER 72: Right.

4 THE COURT: Let me ask you a
5 question -- and I appreciate that. As I
6 understand, and I think it was clear it is not
7 something that you would really like to do but
8 if you have to do you will do. Is that
9 correct?

10 JUROR NUMBER 72: Correct. I am
11 thinking that it wouldn't be easy for anybody.

12 THE COURT: It's not. I
13 understand.

14 JUROR NUMBER 72: I understand but I
15 -- I understand.

16 THE COURT: Your statement is not
17 to say that you want to qualify or change some
18 of your answers that you gave earlier. Is
19 that correct?

20 JUROR NUMBER 72: Correct.

21 THE COURT: I just want to be sure.
22 Let me also remind you that until you have
23 been dismissed from this case, please remember
24 that you still are not at liberty to discuss
25 this case with anyone or permit anyone to talk

1 with you about it. Also, please continue not
2 to watch any news programs about it or read
3 any news accounts.

4 Before you leave -- any additional
5 questions from the State concerning ---

6 SOLICITOR WILSON: No, sir.

7 THE COURT: Thank you very much.
8 Have a great afternoon and we'll see you
9 tomorrow morning at 9:30.

10 JUROR NUMBER 72: Yes, sir.

11 (JUROR NUMBER 72 EXITS COURTROOM)

12 THE COURT: Shall we plod on to the
13 next panel, does that suit you all?

14 BRUCE DURANT: I can go, Your
15 Honor.

16 THE COURT: Mr. Bloom, are you
17 okay?

18 MR. BLOOM: Yes, sir.

19 THE COURT: Thank you, sir.

20 CLERK, MICHAEL CALLAHAN: Judge
21 Dennis, I think that there were two jurors who
22 had not filled out questionnaires.

23 THE COURT: Do they have them now?

24 CLERK, MIKE CALLAHAN: I have
25 Ms. Dawson's and I'll pass those out now.

1 THE COURT: They are Dawson and --
2 the first one that we have is Pridgen and we
3 have the form on Pridgen, so let's take them
4 in that order. We'll take them in order right
5 now. We will be able to get through three and
6 maybe that would be a good time for a break
7 then, too. Let's ask 246, Ms. Pridgen.

8 (JUROR NUMBER 246 ENTERS COURTROOM)

9 THE COURT: Good afternoon. If you
10 will sit and pull yourself up so that you can
11 speak into that mic comfortably.

12 We are going to continue the process
13 that we started on Friday. I am going to have
14 some questions that I need to ask of you and
15 the attorneys probably will have some, too.

16 As you probably noted on Friday and
17 recall, and discern as well, there really are
18 no correct answers to any of these questions.
19 They are really just designed to help you and
20 to help us make a determination as to whether
21 you can be a fair and impartial judge in this
22 matter. Okay?

23 JUROR NUMBER 246: Okay.

24 THE COURT: All that we ask, sir,
25 is that you give a truthful response, a

1 complete response and a candid response. Will
2 you do that, sir?

3 JUROR NUMBER 246: Yes, sir.

4 THE COURT: I would remind you in
5 that regard that you are still under oath in
6 this matter. Okay?

7 JUROR NUMBER 246: Okay.

8 DANA PRIDGEN, being duly sworn to
9 tell the truth, the whole truth and nothing
10 but the truth, testified, as follows:

11 VOIR DIRE EXAMINATION

12 BY THE COURT:

13 Q. Please state your full name for the
14 record.

15 A. Dana Elizabeth Pridgen.

16 Q. Since we were together on Friday, have you
17 talked with anyone, permitted anyone to talk
18 with you, talked to anyone, permitted anyone
19 to talk to you about this case or talk about
20 it in your presence?

21 A. No, sir.

22 Q. Have you watched any news accounts or read
23 any newspaper articles about it?

24 A. No, sir.

25 Q. On Friday, I mentioned a number of names

1 but I failed to mention two names that I need
2 to ask you about. Are you related by blood or
3 marriage, have any business dealings with or
4 socially or casually acquainted with or do you
5 have any dealings with Jeff Osborne or Matt
6 Casey?

7 A. No, sir.

8 Q. When you came today you were given a sheet
9 that sets forth three types of jurors, have
10 you had a opportunity to review that sheet?

11 A. Yes.

12 Q. Which type most accurately describes you?

13 A. I am a type three.

14 Q. Type three, Ms. Pridgen, is -- of course,
15 obviously from your reviewing the sheet you've
16 probably already discerned that that would be
17 a juror in a case where the jury was going to
18 have to make the determination of what
19 punishment was appropriate for the offense of
20 murder. You understand that?

21 A. Yes, sir.

22 Q. Obviously in -- in setting the stage, so
23 to speak, the question would be -- this
24 question comes at the conclusion of the
25 evidentiary -- when they've heard whether or

1 not the person charged was the person that
2 committed the crime. Do you agree?

3 A. (Affirmative nod).

4 Q. So that jury would have already heard all
5 the evidence concerning the charge of murder.
6 Do you understand that?

7 A. Yes, sir.

8 Q. And you would have concluded as a member
9 of that jury that the State had convinced you
10 beyond a reasonable doubt of each of the
11 elements of that crime. Do you agree?

12 A. I agree.

13 Q. One would be that the person that they
14 accused is the person, no question, beyond a
15 reasonable doubt that is the person.

16 Two, that the killing is murder and not
17 some other lesser offense. In this state
18 there are really two that a jury would not
19 consider on a murder charge. One would be
20 called manslaughter and the other involuntary
21 manslaughter.

22 Manslaughter is when somebody, because of
23 some action was provoked into doing something,
24 it caused them to be upset and they responded
25 because they were upset. It's not that type

1 of crime.

2 The other, involuntary manslaughter,
3 really is basically a reckless action by
4 someone and a person died.

5 Some states call it second, third degree
6 murder but we can't call them that in this
7 state. You don't need to worry about that
8 because in this particular setting you would
9 have concluded that this was murder, which is
10 defined as the killing of another with malice
11 aforethought. That means that it is a
12 malicious killing, evil-spirited, mean-
13 spirited, no real reason, no justification, no
14 self-defense, that's gone, no mistake. They
15 wanted to kill this person. They didn't have
16 any rationale reason for doing so, they did
17 it, they meant to do it, there wasn't any
18 question about that. So that's where we are.
19 Okay? You've made that decision.

20 Now we are about to start the second
21 phase, which in this state is a very critical
22 process where a jury is involved. Okay?

23 A. (No verbal response).

24 Q. Let's talk for a moment about in that
25 case, that abstract, as a juror there are

1 certain qualities that you would have already
2 demonstrated, that are important, I think, to
3 serving on a jury and I would like to talk
4 about them with you for just a moment.

5 First of all, would you agree with me that
6 a juror needs to be fair and impartial?

7 A. Yes, sir.

8 Q. That means that they can't have any pre-
9 determination about any issue in a case. That
10 means that they have an open mind. Would you
11 agree with that?

12 A. Yes, sir.

13 Q. I would instruct you if you were on a jury
14 that that open mind has to be -- that you have
15 to maintain that open mind throughout. You
16 can't change that position until the court
17 tells you to deliberate, because it's that
18 process where that begins to change. Only
19 then can that occur. Would you have any
20 problem performing that function?

21 A. No, sir.

22 Q. The other part is that as a juror, you
23 would be expected, as I told you Friday, to
24 use your common sense, your sense of logic and
25 reason, your life's experiences, you would be

1 expected to use that and apply that in
2 evaluating evidence, which consists of
3 testimony of the witnesses and exhibits in
4 deciding what you believe to be the truth.
5 Do you believe that you could do that, as
6 well?

7 A. Yes, sir.

8 Q. Of course, that you would be fair and
9 impartial in doing that, and you could perform
10 that, as well?

11 A. Yes, sir.

12 Q. Okay. Another part of the jury that is
13 important, that is part of the oath that you
14 take as a juror, that you would perform what
15 we've talked about in performing the task of
16 being a judge of the facts. That's what we
17 just discussed.

18 A. (Affirmative nod).

19 Q. The other is that your decision would not
20 only be consistent with the evidence but would
21 be consistent in accordance with the law. As
22 a juror, you don't have anything to do with
23 that. Just as the judge has nothing to do
24 with the facts, the jury as the judge of the
25 facts has nothing to do with the law. That's

1 the judge's responsibility. Would you have
2 any problem honoring that, as well?

3 A. No, sir.

4 Q. That means -- and I am not suggesting that
5 that will always happen, but it can, that you
6 may hear some law that you think, you know, 'I
7 didn't think that was the law' or

8 'I don't think that ought to be the law.'

9 If you have those feelings, you promise that
10 you're going to set those aside. Would you do
11 that?

12 A. Yes, sir.

13 Q. If the law was something that you wouldn't
14 customarily do and you wouldn't like to do but
15 as a juror, in the task that you undertook,
16 you are required to do it, would you be able
17 to set aside those personal feelings and do
18 it?

19 A. Yes, sir.

20 Q. You would honor that, as well?

21 A. Yes, sir.

22 Q. So I -- understanding then that you would
23 -- you have already indicated in this abstract
24 case that you were willing to be that type of
25 juror, is that correct?

1 A. Yes.

2 Q. So you are the type three that says 'I am
3 about to start in the second phase to
4 determine the punishment but at point, as I've
5 promised, I have an open mind.'

6 A. Yes, sir.

7 Q. 'I don't have any predetermination.'

8 A. Yes, sir.

9 Q. Would you agree with me that type one and
10 type two, while they may be justified in their
11 personal beliefs, they don't have that open
12 mind?

13 A. I agree.

14 Q. Therefore, that would not be proper for
15 them to be in that position; would you agree
16 with that?

17 A. (Affirmative nod).

18 Q. Because they would have promised both
19 sides that they could be fair.

20 A. (Affirmative nod).

21 Q. You are being fair when you say, 'I don't
22 know which one it is.'

23 A. Right.

24 Q. Okay. That is very important. First of
25 all, because it's part of the basic process,

1 part of the law. But in this state, normally
2 a jury is not involved in sentencing.
3 Normally it's a judge -- a jury is empaneled,
4 decides whether the state has met its burden of
5 proof and once they've returned a guilty
6 verdict, that ends it. The court, the judge
7 then impose the sentence.

8 Typically in that situation the maximum
9 sentence that the judge could impose would be
10 life without parole. He wouldn't have to
11 impose that. In fact, he could impose less
12 than that if he chose to, but the maximum
13 would be life without parole. The judge
14 certainly would not have the option of
15 imposing a death sentence. Do you understand
16 that?

17 A. Yes, sir.

18 Q. Our law says that is not available unless
19 there is another thing that has to be decided,
20 and that's part of that second phase. Part of
21 the process of determining the appropriate
22 sentence is that the State has to first prove
23 beyond a reasonable doubt something that we
24 call in law "aggravating circumstances".
25 There are a number of them. They have to

1 prove at least one of those for the jury to
2 even be able to consider that as a potential
3 sentence. Do you understand that?

4 A. Yes, sir.

5 Q. Aggravating circumstances, as I stated
6 there are many. Let's just talk, so that we
7 will have an understanding. In that abstract
8 case, two that come to mind would be the
9 killing of a police officer or the killing of
10 a child. If that case involved one of those,
11 you would have to determine beyond a
12 reasonable doubt that the State had met its
13 burden of proof and established that this
14 person committed the offense of murder and
15 that the person that was killed was a child or
16 was a police officer.

17 If that conclusion was made by the jury
18 beyond a reasonable doubt, then and only then
19 would the jury have on the table, so to speak,
20 the option of considering a death sentence.

21 If it is not, then the only choice, the
22 only sentence would be life imprisonment
23 without the possibility of parole.

24 Would you be able to follow that
25 instruction?

1 A. Yes.

2 Q. Now, the instruction would go on to say
3 that if that had been established beyond a
4 reasonable doubt, then the jury would have to
5 pick between the two but there would be no
6 instruction at all that said that you had to
7 choose one or the other. In other words, it's
8 left to your discretion and your judgment
9 which one is the most appropriate. Would you
10 have any problem following that instruction?

11 A. No, sir.

12 Q. As I understand you, in saying that you're
13 a type three juror, and you're now at this
14 point where you are going to have to evaluate
15 the evidence, to make a decision, because
16 you've already established beyond a reasonable
17 doubt that aggravating circumstance that gives
18 you the right to do that, it's my
19 understanding that 'yes', in your mind that
20 there are circumstances where you could
21 conceive and perceive that, 'yes, that would
22 warrant me imposing a death sentence.' I am
23 not asking you to tell me what they are but
24 they exist. Is that true?

25 A. Yes.

1 Q. Likewise, equally there are circumstances
2 in a murder situation where after hearing it
3 all, even though you could impose a death
4 sentence, you would say 'no, that is not the
5 most appropriate.' I believe in this setting
6 life imprisonment without the possibility of
7 parole, under these circumstances, is more
8 appropriate. You could pick between the two,
9 based on the circumstances?

10 A. Yes.

11 Q. It is very important, again, because
12 that's what the jury has to ultimately decide.
13 But, in addition to these aggravating
14 circumstances, and you'll hear some other
15 evidence that will deal with -- that will be
16 issues important for you to consider in
17 fashioning a sentence, but there are also --
18 the law also recognizes in this situation
19 something that -- some that will -- some of
20 which are defined by law, by statute, called
21 mitigating circumstances and some that are
22 nonstatutory, that are just common sense
23 mitigating circumstances.

24 The instruction would say that you are
25 to consider, meaningful consider, seriously

1 consider any mitigating circumstance,
2 statutory or non-statutory, and statutory --
3 there are a number of them, some of them are
4 such as the age of the person, their
5 upbringing as a child, if they have any
6 problems that occur, abuse situations or that
7 type of thing, mental health and emotional
8 issues, addiction issues.

9 Those types of situations, which the law
10 says 'Well, the aggravating circumstances have
11 elevated this murder to permit the jury to
12 consider the death penalty, these types of
13 circumstances tend to move it back towards the
14 norm.' In other words, will allow you to
15 consider and be a reason, if you wanted to
16 give one, to say that this doesn't warrant
17 that particular punishment, it rather warrants
18 life imprisonment without the possibility of
19 parole. Do you understand that?

20 A. Yes, sir

21 Q. Or you may say, 'Well, I understand that
22 they exist but I still believe that the death
23 penalty is the most appropriate.' It doesn't
24 mandate a choice, it just simply is a factor
25 for you to consider. You'd be willing to give

1 due consideration to those mitigating
2 circumstances should they exist.

3 A. Yes, sir.

4 Q. That would be important to you in
5 fashioning a sentence, is that correct?

6 A. Yes, sir.

7 Q. I would also instruct you then in that
8 abstract case, of course, that the person
9 accused had no burden of proof whatsoever at
10 any stage, first or second. They don't have
11 to present anything, the law doesn't require
12 them to present any evidence, they don't even
13 have to testify. I would instruct you that
14 you could never use that against that person.
15 Would you have any problem following that
16 instruction?

17 A. No, sir.

18 Q. And that would be in that second phase,
19 because if the person accused in that abstract
20 case didn't present anything for your
21 consideration, no mitigating circumstances,
22 okay, you couldn't use that against them.
23 Would you honor that instruction?

24 A. Yes, sir.

25 Q. That's important, again, because that's

1 the law but it's important for this part of
2 the charge. Because, in addition to
3 everything that we have just talked about, I
4 would also instruct that jury that if you --
5 if you'd gotten to the point where you have
6 the option, you as the judge in this case
7 deciding a punishment have the right to impose
8 life imprisonment without the possibility of
9 parole for no reason whatsoever, if you choose
10 to. Okay?

11 A. (No verbal response).

12 Q. That means, given everything, you can
13 still say 'While I can impose a death
14 sentence, we just choose not to. Just because
15 we chose to do that.' Would you be able to
16 give meaningful consideration to that
17 instruction as well?

18 A. Absolutely.

19 Q. Okay. As I understand it, you would be
20 fair and impartial in performing all of these
21 tasks?

22 A. Yes, sir.

23 Q. If necessary, you could find a death
24 sentence if the situation warranted it, is
25 that correct?

1 A. Yes, sir.

2 Q. And that would mean that you would have to
3 sign a form that the court would have given
4 you, putting your name saying 'yes, this is
5 the sentence that I've decided.' You could do
6 that?

7 A. (Affirmative nod).

8 Q. And would do that?

9 A. (Affirmative nod).

10 Q. Is that a "yes"?

11 A. "Yes."

12 Q. Likewise, if you chose in a situation, you
13 could say, 'No, life imprisonment is the best
14 choice.'

15 A. (Affirmative nod).

16 Q. You'll pick between the two?

17 A. Yes.

18 Q. We will now stop with the abstract case.
19 Let's talk about Mr. Dickerson's case for just
20 a moment. Okay?

21 A. (Affirmative nod).

22 Q. As I mentioned to you, Mr. Dickerson has
23 been accused of a number of criminal offenses.
24 As I told you, there is a principle of law
25 that applies to Mr. Dickerson and to everybody

1 in this state that is accused of criminal
2 offenses; that is, they are presumed innocent.

3 A. Right.

4 Q. That presumption remains until and unless
5 the State were to convince you otherwise?

6 That is, would convince you beyond a reason-
7 able doubt that he is guilty of one or more of
8 those crimes?

9 A. Right.

10 Q. Do you have any problem with that
11 principle of law?

12 A. No, sir.

13 Q. Do you have any problem today as you look
14 at Mr. Dickerson, believing that he is
15 innocent of these charges?

16 A. No, sir. D

17 Q. And you would maintain that until the
18 court told you to begin your deliberations and
19 then after fully considering the evidence and
20 the law, if you were convinced then otherwise,
21 then you would change that position, is that
22 correct?

23 A. That's right.

24 Q. You would have to be convinced beyond a
25 reasonable doubt, do you understand?

1 A. Yes.

2 Q. And you believe, based on what you've
3 heard thus far, that there is nothing about
4 this case that would cause you any concern
5 about your ability to perform your tasks as a
6 juror, as we've talked about?

7 A. That's right.

8 Q. And you would likewise take the
9 instruction that I gave to you, the law, and
10 set aside any personal beliefs that you have,
11 apply it fairly and impartially?

12 A. Yes, sir.

13 THE COURT: Thank you so much.
14 If you would, answer any questions that the
15 attorneys may have. Anything?

16 BRUCE DURANT: I don't believe
17 that I have a whole lot, to tell you the
18 truth.

19 VOIR DIRE EXAMINATION

20 BY BRUCE DURANT:

21 Q. I just want to make sure of a couple of
22 things. I think I know this because of the
23 answer that you gave Judge Dennis. In an
24 appropriate case, where it would be the
25 collective decision of the jury to impose a

1 death sentence, could you sign your name to a
2 verdict form requiring a defendant to be put
3 to death?

4 A. I believe so, if it was proven without
5 reasonable doubt.

6 Q. I understand that but I need to know if it
7 is more than "believe so". Could you do that?
8 Could you set aside your personal -- any
9 personal misgivings that you have about it and
10 follow the judge's instructions if that were
11 the collective decision of the jury?

12 A. Yes.

13 THE COURT: What was the answer?

14 JUROR NUMBER 246: Yes.

15 EXAMINATION CONTINUED

16 BY BRUCE DURANT:

17 Q. I note on your questionnaire that you put
18 as your response to the death penalty question
19 as being "Undecided."

20 A. (Affirmative nod).

21 Q. I guess what my question is, are you
22 undecided whether or not the death penalty
23 would ever be an appropriate punishment or --
24 I am trying to figure out where you would be
25 on the spectrum of folks that think that the

1 death penalty is always appropriate and those
2 that think that it's never appropriate.

3 A. Right. I guess I hadn't really thought
4 about it a whole lot before now, so I just
5 didn't feel like I had thought about it enough
6 to put an accurate answer.

7 Q. Okay. But is it your opinion now that
8 based upon the questioning by Judge Dennis
9 that -- once again, in accordance with the
10 Judge's instruction you could find a verdict
11 of death in the appropriate case.

12 A. Yes, sir.

13 Q. And then if that appropriate case were
14 brought to you as a juror, you could sign your
15 name to a sentence imposing a sentence of
16 death?

17 A. Yes.

18 BRUCE DURANT: I have nothing
19 further. Thank you very much.

20 THE COURT: Mr. Bloom.

21 VOIR DIRE EXAMINATION

22 BY MR. BLOOM:

23 Q. Ms. Pridgen, my name is Jeff Bloom and
24 along with Andrew Carroll, who is out of the
25 courtroom right now, we represent William

1 Dickerson. I just have a few followup
2 questions.

3 A. Okay.

4 Q. I notice that you work at MUSC?

5 A. Yes, sir.

6 Q. There are some witnesses that work there
7 and I know that you didn't respond to knowing
8 them Friday, but I just wanted to make sure.
9 Do you know a Dr. Cynthia Schandl who works in
10 Pathology and does autopsies?

11 A. No, sir.

12 Q. And a Sandra Fokes who has in the past
13 worked in housekeeping or clerical duties?

14 A. No, sir.

15 Q. She has also gone by the name of Sandra
16 Jenkins?

17 A. No, sir.

18 Q. Or Sandra Dickerson?

19 A. No, sir.

20 Q. Just a few followups. You heard Judge
21 Dennis define murder to you. Some folks are
22 of the view that once they've found someone
23 guilty of murder, that malice murder, that
24 they are always going to vote for the death
25 penalty. Does that describe you or not?

1 A. No.

2 Q. You would still be open in the second
3 phase, as Judge Dennis described it, to
4 additional information that would come in?

5 A. Yes.

6 Q. Judge Dennis also described mitigating
7 circumstances and to orient you to that, it
8 would be things such as addictions, childhood
9 abuse, mental health issues; those are things
10 that you could consider?

11 A. Yes.

12 Q. You don't have any qualms or problems with
13 any of that kind, that would give you any
14 hesitation about that?

15 A. No.

16 Q. Because you understand that some people
17 focus, they want to hear about just what the
18 incident -- the crime was, nothing else. But
19 that doesn't describe you?

20 A. No.

21 Q. Lastly, ma'am, just to orient you, Judge
22 Dennis explained that this is a juror who
23 after they hear all those circumstances, have
24 listened to those instructions, in considering
25 the ultimate penalty as opposed to life

1 without parole, there is nothing in the law

2 that requires you to vote for that?

3 A. Yes.

4 Q. The law calls that a individualized,

5 reasoned moral judgment. Can you accept that?

6 A. Yes.

7 Q. And after you'd heard all that, listened

8 to Judge Dennis' instructions, considered all

9 the circumstances and you were discussing with

10 your fellow jurors, everybody has debated it,

11 you've listened to them, they've listened to

12 you, at the end of that process if eleven of

13 them were voting one way but you had your own

14 individualized, reasoned moral judgment, could

15 you hold to that?

16 A. Absolutely.

17 Q. You wouldn't just give that up and go home

18 because it was the dinner hour, go along to

19 get along?

20 A. No.

21 Q. You could ask them to respect your vote?

22 A. Yes.

23 Q. You would respect theirs?

24 A. Yes.

25 MR. BLOOM: Thank you, ma'am.

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1 THE COURT: Any additional
2 questions, Mr. Durant?

3 BRUCE DURANT: No, sir.

4 THE COURT: Thank you very much,
5 Ms. Pridgen. If you would step out, we will
6 be with you momentarily?

7 JUROR NUMBER 246: Okay. I would
8 like to mention that my grandfather has taken
9 a turn for the worse. He's almost on his
10 deathbed right now. So if I am chosen, I
11 might have to leave at any time on a moment's
12 notice.

13 THE COURT: That is something that
14 is very, as it should be, much on your mind?

15 JUROR NUMBER 246: Yes.

16 THE COURT: Where is he? Here?

17 JUROR NUMBER 246: Columbia.

18 THE COURT: Columbia, and you'd
19 need to be with him or you'd like to be?

20 JUROR NUMBER 246: I don't need to be
21 with him right now but something could happen
22 and I'd want to ---

23 THE COURT: I understand. Thank
24 you very much for bringing that to our
25 attention.

1 JUROR NUMBER 246: Thank you.

2 (JUROR NUMBER 246 EXITS COURTROOM)

3 THE COURT: She's qualified but,
4 given that, I think that would be an
5 unnecessary risk, folks.

6 BRUCE DURANT: She is obviously
7 qualified, Your Honor. If she is selected,
8 maybe if she could be an alternate?

9 THE COURT: But we would lose an
10 alternate, that's my concern. I am willing to
11 do whatever you'all want to do. I'm not going
12 to inject myself into this one.

13 MR. BLOOM: We leave it in your
14 discretion, Your Honor.

15 THE COURT: Thank you.

16 SOLICITOR WILSON: Why don't we just
17 think about it and ---

18 THE COURT: No, I really -- I need
19 to tell her. I don't want her to come back
20 here if she is not going to have to come back.

21 SOLICITOR WILSON: I would ask that
22 she come back and if something happened she
23 could let us know.

24 THE COURT: All right. Think about
25 it overnight then, please. Have her step in,

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1500

1 please.

2 (JUROR NUMBER 246 ENTERS COURTROOM)

3 THE COURT: Thank you, Ms. Pridgen.

4 I appreciate it. Thank you for also -- I'm
5 sorry you're in that situation, as well. It's
6 not a pleasant one, a lot of us have to go
7 through it but that doesn't make it any easier
8 for you, nor should it, and please know that
9 our hearts go out to you and our prayers, to
10 you and your family too.

11 JUROR NUMBER 246: Thank you.

12 THE COURT: I would ask you to do
13 me a favor. Thank you very much, and I
14 appreciate your patience. You've been found
15 to be qualified to be a member of the panel
16 from which we will select our jury.

17 That is going to take place tomorrow
18 at 9:30. I would ask that you do me a favor.
19 If anything changes between now and then, you
20 just call the clerk's office and let them know
21 and they can make that known to me.

22 JUROR NUMBER 246: Okay.

23 THE COURT: Then I would take care
24 of that for you.

25 JUROR NUMBER 246: Thank you.

1 THE COURT: If it doesn't, then we
2 will revisit this tomorrow if necessary.
3 Maybe you will have good news tomorrow, maybe
4 something will turn around. I've seen that
5 happen with lots of people and I hope that's
6 the case with you.

7 Until then and until you have been
8 dismissed from this case, please remember that
9 you still are not at liberty to discuss this
10 case with anyone or permit anyone to talk with
11 you about it. Also, please continue not to
12 watch any news programs about it or read any
13 news accounts. Have a great day and we'll see
14 you, hopefully, in the morning.

15 Be here in this courtroom. Your
16 colleagues will be sitting out there. We will
17 go through that selection process first thing
18 in the morning.

19 JUROR NUMBER 246: Thank you.

20 THE COURT: Also tomorrow, unless
21 something changes, be prepared to stay if
22 necessary because we will start the trial
23 tomorrow. Okay?

24 JUROR NUMBER 246: Yes, sir.

25 (JUROR NUMBER 246 EXITS COURTROOM)

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1 THE COURT: Number 331, please,
2 sir. Ms. Waters.

3 (JUROR NUMBER 331 ENTERS COURTROOM)

4 THE COURT: Good afternoon.

5 JUROR NUMBER 331: Hello.

6 THE COURT: How are you?

7 JUROR NUMBER 331: Okay.

8 THE COURT: Thank you for your
9 patience. We are going to continue that
10 process that we started on Friday. If you
11 will sit and pull yourself up so that you can
12 speak into that mic comfortably.

13 JUROR NUMBER 331: Okay.

14 THE COURT: The questions that we
15 started on Friday, as you probably recall and
16 discern, there are no correct answers to any
17 of these questions.

18 JUROR NUMBER 331: All right.

19 THE COURT: These questions, the
20 purpose is to help you and to help us
21 determine whether you can be a fair and
22 impartial juror in this case. Okay?

23 JUROR NUMBER 331: All right.

24 THE COURT: All that I ask that you
25 do is respond truthfully and candidly to the

1 questions. We are not here to change your
2 beliefs or philosophies. You're entitled to
3 them, don't feel like you have to defend them.
4 Okay?

5 JUROR NUMBER 331: All right.

6 THE COURT: Nor are we here to
7 invade your privacy. I assume you will be
8 truthful and candid, is that fair?

9 JUROR NUMBER 331: Yes.

10 THE COURT: I would remind you in
11 that regard that you are still under oath in
12 this matter. Okay?

13 JUROR NUMBER 331: Okay.

14 RENALA WATERS, being duly sworn to
15 tell the truth, the whole truth and nothing
16 but the truth, testified, as follows:

17 VOIR DIRE EXAMINATION

18 BY THE COURT:

19 Q. Would you please state your full name for
20 the record?

21 A. Renala Erica Waters.

22 Q. Since we were together on Friday, have you
23 talked with anyone, permitted anyone to talk
24 with you or to talk about it in your presence?

25 A. No, sir.

1 Q. Have you watched any news accounts or read
2 any newspaper articles about it?

3 A. No, sir.

4 Q. On Friday, I gave you a number of names
5 but I failed to mention two names that I need
6 to ask you about. Are you related by blood or
7 marriage, have any business dealings with or
8 socially or casually acquainted with either --
9 do you know or have any dealings with either
10 Jeff Osborne or Matt Casey?

11 A. No.

12 Q. Okay. You were given a sheet when you
13 came in that sets forth three types of jurors,
14 have you had a opportunity to review that
15 sheet?

16 A. Right. I think I'm type number three.

17 Q. You are number three?

18 A. (Affirmative nod).

19 Q. You understand that that sheet shows
20 jurors who are involved, obviously, in the
21 sentencing in a murder trial.

22 A. Right.

23 Q. Obviously -- let's talk about jurors a
24 little bit. Let's talk about abstract jurors.
25 You said you would be a number three in that

1 case; is that right?

2 A. That's correct.

3 Q. At the point that you have in that
4 question and on that sheet, that jury and that
5 juror would have finished the first phase.

6 A. (Affirmative nod).

7 Q. They would have heard all the evidence
8 concerning the charge of murder. Do you
9 understand that?

10 A. (Affirmative nod).

11 Q. You would have been a part of a panel that
12 heard all of that and after considering all of
13 the evidence and the law had decided that the
14 State had met its burden of proof beyond a
15 reasonable doubt and the person that they'd
16 charged with murder was that person and the
17 crime was murder. Do you agree?

18 A. Yes, sir.

19 Q. Murder is the intentionally killing of
20 someone with malice aforethought. In this
21 state there are other charges that are called
22 lesser charges of murder; one is manslaughter
23 and the other is involuntary manslaughter.
24 Manslaughter is when someone acts out of --
25 they were provoked and they are acting out of

1 anger, hostility in response to that.

2 Involuntary manslaughter is when somebody
3 was acting recklessly, that type of situation.

4 Neither of those are murder.

5 So you would have concluded and ruled
6 those out. Those aren't even part of the
7 equation. What you have to determine is
8 someone, with an evil spirit -- that is what
9 malice is, evil thoughts, they went and killed
10 somebody, they intended to kill them, wasn't
11 any mistake, no self-defense, nothing to
12 justify it, no rational basis for them taking
13 that action. Okay?

14 A. (Affirmative nod).

15 Q. And you'd decided that beyond a reasonable
16 doubt at this point. Okay?

17 A. Okay.

18 Q. Do I understand that you, as a type three
19 juror, you are about to start, you're about to
20 go into the second phase where you are going
21 to hear some evidence now in addition to what
22 you've heard in the first but this is evidence
23 that specifically will deal with the
24 sentencing, which one is the most appropriate.
25 At this point you have an open mind, is that

1 right?

2 A. That's right.

3 Q. As I understand, that open mind would not
4 change until you've heard all the evidence and
5 the law in the second phase.

6 A. That's correct.

7 Q. That's very important because -- let's
8 talk about the jury in general. When you were
9 picked, that's what you would have had to say
10 and be. Obviously you would have convinced
11 everyone, the court and the persons who were
12 selected, that you were that that type of
13 juror; that is, one that would have an open
14 mind, not predetermine any issues and, at the
15 appropriate time apply your common sense, your
16 sense of reasoning. I assume you would have
17 done all of that in the first phase in that
18 situation. Is that correct?

19 A. That's correct.

20 Q. And now you're ready to perform it again
21 in the second phase but you haven't heard any
22 evidence yet, so you don't have any decision.
23 You have that open mind. You're not
24 influenced at all -- by that, I mean you're
25 certainly expected to consider what you've

1 heard in the first but that doesn't control in
2 any way what you believe the sentence, just
3 the crime itself. Is that correct?

4 A. That is correct.

5 Q. That's important. It's important because
6 that's the law. It's important for a lot of
7 number of other reasons, and I want to talk to
8 you about them now. Number one, typically a
9 jury in this state is involved with
10 sentencing. Do you understand that?

11 A. All right.

12 Q. Normally a jury sits and makes the
13 determination of whether or not the State has
14 proven the offense and -- in that abstract
15 case. In a typical setting for a verdict of
16 murder, that would have it; you would have
17 been excused; and, the judge would then impose
18 the sentence for that offense. Normally the
19 judge cannot impose any sentence greater than
20 life imprisonment without the possibility of
21 parole. He doesn't have to, it could be a
22 lesser sentence but that's the maximum
23 sentence that the judge could impose. He
24 could never impose a death sentence. Okay?
25 A. (Affirmative nod).

1 Q. Our state has provided in some situations
2 where the State goes on to prove something
3 else that is critical for that to happen, they
4 have to prove the existence beyond a
5 reasonable doubt of at least one aggravating
6 circumstances. They have to prove it to that
7 standard of beyond a reasonable doubt.

8 That's part of the evidence that you'll
9 hear in the second phase. So it's good that
10 you haven't made a decision because,
11 obviously, type one and type two jurors,
12 they've already violated their oath in the
13 sense that they've been picked because they
14 already have a predetermination of what the
15 sentence should be. Would you agree with
16 that?

17 A. Yes, sir.

18 Q. And that is not you?

19 A. No.

20 Q. Part of the instruction that I would give
21 to you after you've heard all of the evidence
22 in the second phase is, unless the jury finds
23 beyond a reasonable doubt the existence of
24 aggravating circumstance, you can't even
25 consider a death penalty. The only sentence

1 that the jury can impose is life without
2 parole. Do you understand that?

3 A. (Affirmative nod).

4 Q. Would you have any problem following that
5 instruction?

6 A. No.

7 Q. All right. Now, I would also advise --
8 and, aggravating circumstances, there are
9 many. Just to give you an example, the
10 killing of a police officer or the killing of
11 a child, the jury would have to conclude that
12 that existed beyond a reasonable doubt before
13 considering -- and there are many others, but
14 that's just to give you an example of one.
15 Assuming just for the sake of our discussion
16 in this abstract case that you, as a member of
17 the jury concluded that the State had met its
18 burden of proof and established at least one
19 aggravating circumstance, the charge would go
20 on to say if that happened then, and only
21 then, would the jury have the option of
22 considering death in addition to life. I
23 would instruct you that you are not required
24 to return a death sentence. The court will
25 never tell you that you must return a death

1 sentence in that setting, do you understand
2 that?

3 A. Okay.

4 Q. Because that is totally left up to you as
5 the judge of the facts in that case.

6 A. Okay.

7 Q. It is my understanding that as a type
8 three juror that if you had gotten to that
9 point, then you be able to apply that common
10 sense, that sense of logic and reasoning
11 fairly and impartially and make a
12 determination considering all the facts and
13 circumstances and in applying the law fairly
14 and impartially reach a decision in that
15 abstract case. That is that there are some
16 circumstances where you would say the death
17 sentence is one that you would give and that
18 there are some circumstances that even though
19 you could return a death sentence, you would
20 chose to say, 'No, the most appropriate
21 sentence is life imprisonment without the
22 possibility of parole.'

23 But you don't know which one that it would
24 be until you've heard it all.

25 A. Right.

1 Q. That's correct?

2 A. Um-humm.

3 Q. There are other aspects of my charge and
4 it's important that you answered that because
5 there are a number of things that the court
6 would instruct you to consider.

7 Of course, you would consider the evidence
8 of aggravating circumstances, and there would
9 be other evidence that you be expected to
10 consider, weigh, give weight to.

11 I would instruct you also if there are
12 mitigating circumstances and I defined some of
13 those are nonstatutory; in other words, common
14 sense mitigating circumstances. Those are
15 simply factors that our law recognizes that
16 while this charge of murder, because of this
17 aggravating circumstance has been elevated to
18 allow you to consider a death penalty. These
19 are circumstances that tend to move it back in
20 the other direction.

21 In other words, gives the jury some
22 explanation as to why someone may have done
23 what they did. It doesn't excuse what they
24 did but it gives you some rationale, some
25 understanding of that person; such as

1 addictions, drugs addictions, where they
2 function under some impairment from that;
3 their life's history and how they were raised,
4 problems growing up, maybe child abuse and
5 that type of thing. A number of factors that
6 you may be asked to consider. But if they
7 exist, the court would instruct you that you
8 must give meaningful consideration to those
9 mitigating circumstances before deciding on a
10 sentence. I assume that you would be able to
11 follow that, as well?

12 A. (Affirmative nod).

13 Q. You would consider that important to you
14 in fashioning a sentence, is that correct?

15 A. (Affirmative nod).

16 Q. And you would be willing to weigh all of
17 that before making a final determination; is
18 that true?

19 A. I would.

20 Q. I have also instructed you in, in the
21 first phrase and the second phrase that persons
22 accused of criminal offenses have no
23 responsibility to prove anything, they don't
24 have to prove any evidence, they don't have to
25 present any evidence, they don't have to

1 testify. If they choose not to present
2 anything or not to testify, you don't have any
3 -- you may not consider that against them for
4 any reason whatsoever. Would you have any
5 problem following that?

6 A. No, sir.

7 Q. So that wouldn't include the second phase.
8 If there were no mitigating circumstances for
9 your consideration, you can't hold that
10 against them. Would you have problems
11 following that instruction?

12 A. No.

13 Q. That is important because that's the law
14 but it is always important because another
15 part of the charge could be -- notwithstanding
16 that you found aggravating circumstances and,
17 therefore, have the right to consider and
18 impose the death sentence, you would have the
19 right on that jury to impose life imprisonment
20 without the possibility of parole for no
21 reason whatsoever. In other words, if you
22 just say 'I just choose to do that.' The
23 reason I choose to do so is because I just
24 choose to -- in other words, no reason.

25 You would be able to consider those

1 options, as well; is that correct?

2 A. I would.

3 Q. In other words, that's the right of a
4 jury.

5 A. Okay -- uh, -- yeah.

6 Q. And it is my understanding that you would
7 be able to consider all of those situations
8 and make a determination about what's fair and
9 just. It may be death or it may be life
10 imprisonment without the possibility of parole
11 but until you've heard it all, you can't tell
12 me; is that correct?

13 A. That's correct.

14 Q. But you can tell me without any question
15 or reservation that you could be fair in
16 applying your common sense, your sense of
17 logic and reason; is that true?

18 A. (Affirmative nod).

19 Q. And you would follow any instruction
20 setting aside any personal feelings and strong
21 feelings that you may have? Is that correct?

22 A. That's correct.

23 Q. Even though it may not be the most
24 pleasant thing you've ever had to do?

25 A. That's correct.

1 Q. Let's -- we're finished with the abstract
2 case. Let's talk about Mr. Dickerson for a
3 moment. As I mentioned to you Friday, he's
4 been accused of a number of charges. He, as
5 anybody charged with criminal offenses in this
6 state or country is presumed innocent. You, I
7 believe, didn't have any problem with that
8 principle of law; is that correct?

9 A. That's correct.

10 Q. And it is an active presumption. It means
11 that until and unless that person is convicted
12 of that offense, you have to see him or her as
13 being innocent. Do you have any problems
14 today as you look at Mr. Dickerson considering
15 him to be totally innocent of these charges?

16 A. (Negative gesture), no problem at all.

17 Q. You, as a juror, if you were picked in
18 this case would have to continue with that
19 position until you began your deliberations
20 and, after considering the evidence, if you
21 were convinced beyond a reasonable doubt
22 otherwise -- that is, that the State
23 established each of those elements required
24 beyond a reasonable doubt, then and only then
25 could you then say 'No, he is not. He's

1 guilty of this particular offense.' Do you
2 understand that?

3 A. Yes.

4 Q. And you could do that and be fair and
5 impartial in performing that task?

6 A. Yes.

7 Q. Again, if you were in this case you would
8 follow any instruction that I gave you and
9 apply that fairly and impartially; is that
10 correct?

11 A. Yes.

12 THE COURT: Thank so much. Please
13 answer any questions that the attorneys may
14 have.

15 VOIR DIRE EXAMINATION

16 BY MR. BLOOM:

17 Q. Good afternoon, Ms. Waters. How are you
18 today?

19 A. I'm fine. How are you?

20 Q. Good. My name is Jeff Bloom and along
21 with Andrew Carroll, who is out of the
22 courtroom right now, we represent William
23 Dickerson. I just have a few followup
24 questions from what Judge Dennis asked you.
25 Okay?

1 A. Okay.

2 Q. First of all, I noticed that you work at
3 MUSC?

4 A. That's right.

5 Q. I know the Judge called their names
6 Friday, but I just wanted to double check to
7 see if you know them.

8 A. Okay.

9 Q. One is Dr. Cynthia Schandl, who works in
10 the Pathology department, does autopsies?

11 A. No, I am not familiar ---

12 Q. You don't have any connection with that
13 department?

14 A. No.

15 Q. The other is Sandra Fokes, who in the past
16 I believe was working in housekeeping,
17 sometimes clerical, ward duties?

18 A. No, sir.

19 Q. She has sometimes gone by a different last
20 name, Sandra Jenkins?

21 A. No.

22 Q. Or Sandra Dickerson?

23 A. (Negative gesture).

24 Q. Okay. Thank you If we were to be chatting
25 and somehow a discussion of the death penalty

1 came up, if I turned to you and asked, 'What
2 is your general opinion of the death penalty?,
3 what would that be?

4 A. My general opinion about the death penalty
5 is that it is necessary. I think that it
6 shouldn't have to happen but I will vote for
7 it.

8 Q. If the Judge defined murder to you, a
9 malice murder, that means that just because
10 you found a person guilty of that type of
11 malice murder that you're going to
12 automatically vote for the death penalty?

13 A. No.

14 Q. Okay. When you use the word necessary, I
15 am pretty sure I understand what you mean but
16 I don't want to assume. Can you just explain
17 to me what you mean by necessary?

18 A. It's more of being a deterrent, but it's
19 necessary.

20 Q. Judge Dennis also gave you some
21 information about the law and there was one
22 instruction that he was talking about and --
23 and I know some of this is new. You've never
24 sat in this kind of case before, have you?

25 A. No.

1 Q. I didn't think so. But the Judge
2 explained to you just now that one of the
3 instructions that he will give a jury when
4 you're trying to decide, after you've heard
5 everything and you're trying to decide between
6 the ultimate punishment and life without
7 parole, the jury is told you can vote for life
8 without parole for any reason, for no reason
9 or as a simple act of mercy. Do you remember
10 the Judge telling you that?

11 A. Right..

12 Q. And he asked you if you could follow that
13 and you had a pause in there and I just wanted
14 to ask you if there is some concern or problem
15 or why you may have paused at that point in
16 time.

17 A. I mean, that's not something that you
18 would want to do but it's -- just to think
19 about it. It's not something that you think
20 about every day, just something that was new
21 to me.

22 Q. Okay. With that instruction, even though
23 that's new to you -- obviously, to be fair to
24 you, because you've never been in that
25 situation, you could follow that type of

1 instruction?

2 A. Right.

3 Q. Okay. The law also calls that, once
4 you've reach your vote or verdict your
5 individualized, reasoned moral judgment. Can
6 you make that?

7 A. Yes.

8 Q. Again, that's after you've heard all the
9 evidence and followed the Judge's instruction?

10 A. (Affirmative nod).

11 Q. And you understand that there is nothing
12 in the law, as Judge Dennis, explained that
13 would require a juror to vote for the ultimate
14 punishment?

15 A. Right.

16 Q. Okay. In that vein, once you've heard all
17 the evidence, all the circumstances, the law
18 that Judge Dennis just read to you, including
19 the one about mercy, after you've deliberated
20 and discussed it with all the fellow jurors,
21 if you were in that situation and you'd
22 listened to them and they'd listened to you,
23 can you come to that individualized and
24 reasoned moral judgment for yourself?

25 A. I can.

1 Q. And if eleven jurors were voting one way
2 and you were voting another way, after you'd
3 reached that reasoned, moral and
4 individualized judgment, could you stay your
5 ground if that is what you felt was right?

6 A. Absolutely.

7 Q. You are not just going to fold and say,
8 'it's time to go home to dinner and give up
9 your vote.'

10 A. (Negative gesture).

11 Q. You didn't strike me as that person but
12 you know that I have to ask.

13 A. (Affirmative nod).

14 Q. You would ask the other jurors to respect
15 your vote?

16 A. Yes.

17 Q. And you would respect theirs?

18 A. Absolutely.

19 MR. BLOOM: Thank you very much,
20 ma'am.

21 THE COURT: Thank you, Mr. Bloom.

22 VOIR DIRE EXAMINATION

23 BY BRUCE DURANT:

24 Q. Hello, Ms. Waters. I'm Bruce Durant,
25 Deputy Solicitor. This is Scarlet Wilson, she

1 is the Solicitor. This is Rutledge Durant.

2 We'll be handling this case on behalf of the
3 State of South Carolina. I notice that you
4 were a Psychology major.

5 A. Yes, sir.

6 Q. Have you kept up your interest in
7 Psychology?

8 A. I don't quite seem to be able to do that.

9 Q. I can certainly understand that. Do you
10 think your educational background might have
11 any effect on your ability to be a fair and
12 impartial juror when it comes to evaluating
13 aggravating circumstances or mitigating
14 circumstances?

15 A. I mean, it has an impact on everything
16 that I do. Whether it would impact me being
17 fair or not, I don't think so. No.

18 Q. Okay. How do you think that it would
19 impact you?

20 A. It would probably give me a little edge on
21 understanding a lot more -- like I've seen
22 both -- well, (pause).

23 Q. Well, let me ask you this question, do you
24 think -- do you think you could set your
25 personal feelings aside and evaluate a case

1 based solely on the evidence and the law as
2 the Judge would charge it to you?

3 A. Yes.

4 Q. If that -- if doing that led the jury to
5 the conclusion in a particular case that the
6 appropriate sentence would be a sentence of
7 death, could you as a juror sign your name to
8 a verdict form requiring someone to be put to
9 death?

10 A. Yes.

11 BRUCE DURANT: I have nothing
12 further. Thank you very much.

13 THE COURT: Thank you. Mr. Bloom,
14 anything else?

15 MR. BLOOM: No, Your Honor.

16 THE COURT: Let me just follow up
17 on something that was said. I appreciate it
18 and I understand exactly what Mr. Durant was
19 saying. And you answered it very
20 appropriately.

21 One of the things that you're
22 expected to do, of course, is to apply your
23 life's experience, sense of logic and
24 reasoning and your knowledge. So you are
25 expected to us what you've been trained and

1 what you've studied. The question that I have
2 is, in analyzing the evidence, and in deciding
3 what you believe to be the truth, will you
4 apply that knowledge fairly and impartially?

5 JUROR NUMBER 331: Absolutely. Yes.

6 THE COURT: That's what you are
7 expected to do. You would do that, is that
8 correct?

9 JUROR NUMBER 331: That's correct.

10 THE COURT: If you would please
11 step out and -- excuse, any additional
12 questions from the State or ---

13 BRUCE DURANT: No, sir.

14 MR. BLOOM: (Negative gesture).

15 THE COURT: If you will step out
16 for just a moment, we will be with you. I
17 have to discuss some things with the
18 attorneys.

19 (JUROR NUMBER 331 EXITS COURTROOM)

20 THE COURT: I find Ms. Waters to be
21 qualified. Any objection, Mr. Durant?

22 BRUCE DURANT: No, sir.

23 THE COURT: Any objection, Mr.
24 Bloom?

25 MR. BLOOM: No objection.

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Jury Trial of April 20 - May 7, 2009
Before The Honorable R. Markley Dennis, Jr.

1 THE COURT: Please ask her to step
2 in, please.

3 (JUROR NUMBER 331 ENTERS COURTROOM)

4 THE COURT: Thank you, Ms. Waters.
5 I appreciate your patience and we're -- you've
6 almost finished. We find that you're
7 qualified to be a member of the panel from
8 which we will select our jury. That process
9 will take place tomorrow morning at 9:30 in
10 this courtroom, so we need you to be present
11 at 9:30. If you will, come directly to the
12 courtroom this time, there'll be jurors
13 sitting out in the audience tomorrow. If you
14 will just take a seat there, we will start
15 that process.

16 I don't think that it will take that
17 long, but whenever we finish the process we
18 will start into the trial of the case. So
19 please be prepared to stay tomorrow, if
20 necessary, because we won't taken any more
21 breaks, we'll move right into the process.

22 Until then and until you have been
23 dismissed from this case, please remember that
24 you still are not at liberty to discuss this
25 case with anyone or permit anyone to talk with

1 you about it. Also, please continue not to
2 watch any news programs about it or read any
3 news accounts. Have a great day and we'll see
4 you in the morning.

5 JUROR NUMBER 331: Yes, sir.

6 (JUROR NUMBER 331 EXITS COURTROOM)

7 THE COURT: Juror 264.

8 (JUROR NUMBER 264 ENTERS COURTROOM)

9 THE COURT: Hello, Mr. Sanders.

10 How are your?

11 JUROR NUMBER 264: Fine.

12 THE COURT: If you will sit and
13 pull yourself up so that you can speak into
14 that mic comfortably. We appreciate your
15 patience. We're continuing that process that
16 we started on Friday. In that regard, you
17 remember that we were asking questions -- and
18 you remember me saying, as you've probably
19 discerned, there are no "correct" answers to
20 any of these questions. I have some questions
21 that I need to ask of you and the attorneys
22 may have some questions as well. Simply the
23 only thing that we ask is that you truthfully
24 respond to the questions, that you fully
25 respond to the questions and that you candidly

1 respond to the questions.

2 JUROR NUMBER 264: Yes, sir.

3 THE COURT: Will you do that, sir?

4 JUROR NUMBER 264: Yes, sir.

5 THE COURT: And please understand
6 something else. There are no correct answers,
7 as I stated, nor are you being challenged for
8 any of your beliefs. You're entitled to your
9 beliefs. Don't feel as though you have to
10 defend those beliefs, because we recognize
11 that and do not in any way challenge any
12 beliefs that you may have. Okay?

13 JUROR NUMBER 264: Okay.

14 THE COURT: Nor are we here to
15 invade any privacy issues either.

16 I would remind you, sir, that you are
17 still under oath.

18 JUROR NUMBER 264: Yes, sir.

19 RODNEY SANDERS, being duly sworn to
20 tell the truth, the whole truth and nothing
21 but the truth, testified, as follows:

22 VOIR DIRE EXAMINATION

23 BY THE COURT:

24 Q. Since we were together on Friday, have you
25 talked with anyone, permitted anyone to talk

1 with you -- talked to anyone, permitted anyone
2 to talk to you about this case or talk about
3 it in your presence?

4 A. No, sir.

5 Q. Have you watched any news accounts or read
6 any newspaper articles about it?

7 A. No.

8 Q. On Friday, I mentioned a number of names
9 but I failed to mention two names that I need
10 to ask you about. Are you related by blood or
11 marriage, have any business dealings with or
12 socially or casually acquainted with or have
13 any dealings with either a Jeff Osborne or a
14 Matt Casey?

15 A. No.

16 Q. You were given a sheet when you came in
17 that sets forth three types of jurors, have
18 you had a opportunity to review that sheet?

19 A. Yes.

20 Q. Which type most accurately describes you?

21 A. I would go with number three.

22 Q. Let's talk about that for just a few
23 moments. Obviously that sheet described a
24 juror who is involved in a murder trial in
25 which the jury is going to make a

1 determination of what the sheet will be. Do
2 you agree?

3 A. Yes.

4 Q. Obviously at this point in the trial the
5 person accused has been found guilty of
6 murder. Okay.

7 A. Okay.

8 Q. You would have been a part of that Jury
9 panel?

10 A. Yes.

11 Q. All right. Am I to understand from being
12 a type three juror that at this point you
13 haven't heard any evidence yet about what the
14 appropriate sentence would be.

15 A. No.

16 Q. Okay. You've only tried the first part of
17 the case. Am I to understand that you at this
18 point do not have an opinion about what the
19 appropriate sentence is to be?

20 A. No.

21 Q. Okay. That's good, and let's talk about
22 why. First of all, when you started this
23 case, this abstract case, you would have made
24 a commitment to the court and to all the
25 parties that you had an open mind.

1 A. (Affirmative nod).

2 Q. That you hadn't predetermined anything.

3 A. No.

4 Q. And that you would wait until you were

5 instructed by the court to begin your

6 deliberations to change that position. In

7 other words, you would keep that open mind?

8 A. (Affirmative nod).

9 Q. And furthermore that you would and could

10 at the appropriate time apply your common

11 sense, your sense of logic and reason, and

12 decide from the evidence what you believe to

13 be the true facts. Then once you decide that,

14 you would take the law and apply that law

15 fairly to those facts?

16 A. Yes, sir.

17 Q. That would have already been demonstrated

18 at the first phase, wouldn't have it? Because

19 you would have had an open mind about the

20 person accused, you wouldn't have had any

21 predetermination, but you would -- you and the

22 other jurors would have considered all the

23 evidence that the State presented about the

24 person that committed this crime, allegedly,

25 and you have concluded that the State was

1 correct, that this was the person. They got
2 the right person, the crime was murder. Okay?

3 A. Okay.

4 Q. Let's talk about what murder means.

5 Murder means the killing of another person in
6 this state with malice aforethought. That
7 means that it is a malicious murder, there was
8 no rational reason for it, no justification.
9 They wanted to kill somebody, with evil
10 intent, an evil-spirit and they went and got
11 him and did it.

12 It would rule out, in this state there are
13 two other charges that can be considered in a
14 murder case, typically. Typically that can be
15 considered. One is called manslaughter, which
16 is the killing of another in the sudden heat
17 of passion. In other words, they were
18 provoked to do something. Or involuntary
19 manslaughter, which can be the killing of
20 somebody by reckless action by somebody.
21 Okay?

22 A. (Affirmative nod).

23 Q. You've ruled those two out. They don't
24 apply. What you've determined is that this is
25 murder. No question about it. Okay?

1 A. (No verbal response).

2 Q. Okay? Do you agree with that?

3 A. Yes, sir.

4 Q. And -- no self-defense. As I stated, no
5 justification for doing it. No mistake. This
6 is the man.

7 As I understand, having said all of that,
8 you still have that open mind. Is that
9 correct?

10 A. Yes.

11 Q. Because you would have promised everybody,
12 before you started, that you didn't have any
13 predetermination of what the appropriate
14 sentence would be. Correct?

15 A. Yes, sir.

16 Q. Obviously type one and type two, they may
17 -- they haven't honored the oath that they
18 took in that setting if they're sitting on
19 your jury. Have they?

20 A. Yes.

21 Q. Because why?

22 A. (No verbal response). Well, ---

23 Q. If you're type one, haven't you already
24 decided?

25 A. I -- (pause).

1 Q. I am saying, if that juror who is on there
2 says, 'I believe that it is a death penalty' -
3 - because he's already decided.

4 A. Yes.

5 Q. Because he's already decided, he hasn't
6 even gone through the second phase; do you
7 agree with that?

8 A. Yes.

9 Q. That's not correct, that's not the way
10 that a juror should be. Correct?

11 A. Yes.

12 Q. The second juror says, 'Well, we've
13 convicted them of murder. I believe that it is
14 life imprisonment and that's the only thing
15 that it can be.' Do you agree that that juror
16 has not necessarily been honest with his oath?

17 A. Yes, sir.

18 Q. Because he's already determined.

19 A. Um-humm.

20 Q. You would be the one that hadn't done
21 that?

22 A. No.

23 Q. All right, sir. The second phase would be
24 when you would hear the evidence, which is
25 very important, to determining the sentence

1 because, generally, Mr. Sanders, the jury
2 doesn't determine the sentence in a murder
3 case in this state. Do you understand that?

4 A. Okay.

5 Q. Normally what happened in that case,
6 typically, for a charge of murder the jury
7 would have heard the state's presentation,
8 made a determination that, 'yeah, you got the
9 right person and it was murder.' The judge in
10 that case would have said, 'Thank you, Mr.
11 Sanders, you're free to leave.' The judge
12 would have imposed the sentence. Typically.
13 Okay?

14 A. Okay.

15 Q. Normally the maximum that the judge could
16 consider would be life without parole. He
17 doesn't have to because there are -- he could
18 impose a lesser sentence than life, but that
19 would be the maximum. The judge couldn't even
20 consider a death sentence. Do you understand
21 that?

22 A. Um-humm.

23 Q. Our law says that the reason this jury can
24 consider it, maybe, is because of what is
25 going to happen in the second phase. Part of

1 the second phase, one aspect that you would
2 have to consider in fashioning a sentence, is
3 whether or not the State proves aggravating
4 circumstances, at least one. Because in this
5 state, unless they prove that beyond a
6 reasonable doubt, the only sentence that you
7 can consider would be life imprisonment
8 without the possibility of parole. Do you
9 understand that?

10 A. Yes.

11 Q. Would you have any problem if you were on
12 that juror and I instructed you of that, in
13 following that instruction? In other words,
14 the State has to first convince you of an
15 aggravating circumstance before you can even
16 consider a death sentence?

17 A. Yes, I understand.

18 Q. So you would follow that instruction?

19 A. Yes.

20 Q. Let's talk a minute about the aggravating
21 circumstances. There are a number of them and
22 there is no need for me to discuss all of them
23 now with you but I would tell you, just for
24 purposes of our discussion about this abstract
25 case, the killing of a police officer is one

1 or the killing of a child is one. If the
2 State were to prove that beyond a reasonable
3 doubt, then -- and you found that as a member
4 of the jury, then and only then would you be
5 able to consider a death sentence. Do you
6 understand that?

7 A. (Affirmative nod).

8 Q. I would also instruct you that if you
9 found an aggravating circumstance beyond a
10 reasonable doubt you still wouldn't have to
11 return a death penalty. In other words, it's
12 just now an option for you -- which before
13 wouldn't have been an option, because that has
14 to exist before it is an option. Do you
15 understand that?

16 A. Yes.

17 Q. As a type three juror, as I understand, at
18 this point you've established beyond a
19 reasonable doubt that an aggravating
20 circumstance exists and now you have an option
21 between the two. You as a type three juror
22 would have and would have to be able to
23 analyze the evidence that you heard in the
24 second phase, together with the evidence in
25 the first phase, and come to a decision in

1 that case of what you think the appropriate
2 sentence would be.

3 There are circumstances in your mind that
4 you could think of that would cause you to
5 say, 'Yeah, this one needs to be a death
6 sentence.' Is that true?

7 A. (Pause) -- uh, -- (pause).

8 Q. I'm not asking you to tell me what they
9 are. I am just saying, 'Are there
10 circumstances in your mind that ---

11 A. Oh, no.

12

13 Q. --- would warrant you finding a death
14 sentence?

15 A. No.

16 Q. None?

17 A. None.

18 Q. So am I to understand you, at this point
19 notwithstanding that fact that I've instructed
20 you to say, 'Mr. Sanders, you don't have to
21 agree with the law but you have to set aside
22 any strong feelings that you have or belief
23 that you have and follow the law.' That means
24 to fairly consider it and if there -- if after
25 considering it you determined that a death

1 sentence is warranted, you would have to
2 impose that. Am I to understand you that
3 there would never be a situation where you
4 could follow that instruction?

5 A. Yes.

6 Q. 'Yes' there is or 'yes, there's no such
7 situation.'

8 A. Well, yes, there's no such situation.

9 Q. It doesn't exist?

10 A. (Negative gesture), it doesn't exist.

11 Q. So it doesn't matter what the situation
12 is, there would never be a time when you could
13 impose a death sentence?

14 A. No.

15 Q. So your choice, given that option between
16 a death sentence and life imprisonment, your
17 choice would always be life imprisonment?

18 A. Yes, sir.

19 THE COURT: Thank you so much.
20 Please answer any questions that the attorneys
21 may have.

22 VOIR DIRE EXAMINATION

23 BY BRUCE DURANT:

24 Q. Hello, Mr. Sanders. I'm Bruce Durant, I'm
25 the Deputy Solicitor. This is Scarlet Wilson,

1 she's the Solicitor. This is Rutledge Durant,
2 he's an Assistant Solicitor. We will be
3 handling this case. I just want to be clear
4 on this. You're against the death penalty.
5 Is that correct?

6 A. Yes.

7 Q. In all cases, is that correct?

8 A. Yes.

9 Q. And you could never impose the death
10 penalty until any circumstances, is that
11 correct?

12 A. Yes.

13 BRUCE DURANT: I don't think that
14 I have any other questions.

15 THE COURT: Thank you, sir.

16 VOIR DIRE EXAMINATION

17 MR. BLOOM:

18 Q. Mr. Sanders, I just want to make sure that
19 I understand you. You could never set that
20 strong view aside and follow the judge's
21 instructions and listen to the all the
22 evidence and in your mind, if the
23 circumstances warranted it, ever vote to
24 impose the death sentence?

25 A. Well, I don't believe in -- because of my

1 religion, I am a Methodist, and I don't
2 believe in taking a life.

3 Q. Thank you very much. So that's a belief
4 based on your ---

5 A. That's just my belief.

6 Q. Based on your religion and faith?

7 A. Yes, sir.

8 MR. BLOOM: Thank you, sir.

9 THE COURT: Thank you very much.

10 As I mentioned to you, Mr. Sanders, you're
11 entitled to those beliefs and no one is going
12 to ask you to change your mind, sir. I am
13 going to excuse you from any further
14 participation in this. You have completed
15 your service. I appreciate your being a part
16 of the process. Have a great day, sir.

17 JUROR NUMBER 264: Thank you.

18 (JUROR NUMBER 264 EXITS COURTROOM)

19 THE COURT: From the State's
20 standpoint -- I find Mr. Sanders to be not
21 qualified because of his inability to follow
22 the instructions in that his beliefs would
23 substantially impair his performance of duty
24 as a juror, consistent with his oath and the
25 law. Any objection from the State?

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1 BRUCE DURANT: The State would
2 agree with you, Your Honor.

3 THE COURT: Mr. Bloom?

4 MR. BLOOM: Your Honor, please note
5 our objection to with the other similar
6 jurors: First, Eighth and Fourteenth
7 Amendments.

8 THE COURT: Absolutely, sir. Thank
9 you very much. Let's take about five minutes
10 and then we will be back.

11 (BRIEF RECESS)

12 (DEFENDANT PRESENT)

13 THE COURT: Let the record reflect
14 that Mr. Dickerson is present. Is the State
15 ready?

16 SOLICITOR WILSON: Yes, sir.

17 THE COURT: Defense ready?

18 MR. BLOOM: Yes, Your Honor.

19 THE COURT: Mr. Bloom? Mr. Durant?
20 I was thinking back there -- and you've talked
21 about it, you'all have mentioned it, and I
22 know it as a lawyer. We get in the world of
23 "yes". I don't know why I didn't think of
24 this before, because it just makes sense to me
25 but I -- I choose to believe this rather than

1 the cynical reason, and that is that Mr.
2 Sanders really didn't understand what he was
3 saying when he said he was a type three juror.
4 I don't think he was trying to mislead us
5 intentionally. I think he just didn't
6 understand.

7 MR. BLOOM: I agree that they don't
8 understand the process.

9 THE COURT: So what I am going to
10 start doing is this, because you'all have
11 pointed out something and I know it, too.
12 It's cross-examination from my standpoint,
13 which means "yes" or "no." I am going to
14 start asking a juror, 'What does that mean to
15 you?'

16 Now, the reason I am reluctant to
17 doing that, I don't know what they are going
18 to say to that question. That might open
19 Pandora's Box, and that's my -- that's been my
20 reluctance to do it. But I just wonder if
21 that isn't a better way to get to what we all
22 are looking for.

23 MR. BLOOM: In terms of what a type
24 three juror means to them?

25 THE COURT: Yes, when they -- what

1 does that mean?

2 MR. BLOOM: I think that is a very
3 valid question. We have no objection to that.

4 THE COURT: Does the State have an
5 objection?

6 BRUCE DURANT: No.

7 THE COURT: It may open -- they may
8 say some things that they're not supposed --
9 that under our law that the Court has said
10 'no, no, you can't ask that question.'

11 SOLICITOR WILSON: I think, in my
12 observation the issue has been a literacy
13 issue when we've had it.

14 THE COURT: I agree with you. To
15 me, I think I would like to hear them
16 articulate what that means. That will then
17 allow me to ask followup questions but at
18 least we all have had the benefit, rather than
19 go through a litany of questions to get to the
20 last one and them say, 'Oh, no, I could never
21 do that.' Okay?

22 BRUCE DURANT: Fine with us, Your
23 Honor.

24 THE COURT: And you have no
25 objection, Mr. Bloom?

1 MR. BLOOM: None at all. No.

2 THE COURT: Thank you very much.

3 That's what we will do from this day forth,
4 and I will try to make a note to put that in
5 my notebook that that is what I intend to do
6 in the future. I don't know why I didn't
7 think about doing it before. I guess I'm just
8 a slower learner.

9 Are we ready? Bring in Ms.
10 Setzehorn.

11 (JUROR NUMBER 272 ENTERS COURTROOM)

12 THE COURT: Good afternoon.

13 JUROR NUMBER 272: Good afternoon.

14 THE COURT: I know you are probably
15 waiting and I apologize for the length of
16 time. This process, we do the best that we
17 can staying on time but -- certainly, I'm
18 sorry. Thank you for your patience.

19 Would you please state your full name
20 for the record?

21 JUROR NUMBER 272: Donna Elaine
22 Setzehorn.

23 THE COURT: Thank you very much for
24 being here. We are here to continue the
25 process that we started yesterday. I am going

1 to ask that you pull up so that you speak
2 comfortably into that microphone, so that
3 everyone can hear you.

4 JUROR NUMBER 272: Okay.

5 THE COURT: We are going to have
6 some questions. I am going to have some
7 questions and then the attorneys will probably
8 have some questions of you. All of these
9 questions are really just to help all of us,
10 you, us, determine whether you can be a fair
11 and impartial judge with me in this case.
12 Okay?

13 JUROR NUMBER 272: Okay.

14 THE COURT: That's the sole
15 purpose.

16 JUROR NUMBER 272: I understand.

17 THE COURT: There are no "correct"
18 answers to any of these questions, nor are we
19 trying to challenge any belief that you have.
20 You are entitled to those beliefs. Don't
21 feel that you have to justify any of them. We
22 respect that and respect you for that. Nor is
23 anyone trying to invade your privacy.

24 With that understanding, I would only
25 ask that you be truthful and candid in your

1 response and that you answer the questions
2 completely. Will you do that?

3 JUROR NUMBER 272: Yes, I will.

4 DONNA SETZEHORN, being duly sworn to
5 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. Since we were together -- well, first I
10 would remind you that you are still under
11 oath. Okay?

12 A. Okay.

13 Q. --- on Friday, have you talked with
14 anyone, permitted anyone to talk with you;
15 talked to anyone, permitted anyone to talk to
16 you about this case or to talk about it in
17 your presence?

18 A. No, I haven't.

19 Q. Have you watched any news accounts or read
20 any newspaper articles about it?

21 A. I walked through a room while the news was
22 on but I didn't stop.

23 Q. Do you recall anything that you heard, or
24 may have heard?

25 A. No.

1 Q. Okay. On Friday, I mentioned a number of
2 names and ask you all if you were related to
3 any of them. I failed to mention two names
4 that I need to ask you about. Are you related
5 by blood or marriage, have any business
6 dealings with or socially or casually
7 acquainted with or have any dealings with a
8 Jeff Osborne or Matt Casey? Either of those?

9 A. No.

10 Q. You were given a sheet when you came in
11 that sets forth three types of jurors, have
12 you had a opportunity to review that sheet?

13 A. Yes, I have.

14 Q. Of the three types of jurors listed there,
15 which type most accurately describes you?

16 A. Most accurately and most honestly,
17 probably two.

18 Q. All right. Tell me what type two means to
19 you.

20 A. Well, a type two means to me that whether
21 they are guilty or not guilty -- guilty of,
22 you know, -- the sentence, either the death
23 penalty or the life imprisonment without the
24 possibility of parole, and would my mind
25 already be made up. I almost -- I don't

1 believe in the death sentence. That's just my
2 belief in the House of God, I just don't.
3 That's -- no matter what you've done.

4 Q. No matter what you've done?

5 A. (Affirmative nod).

6 Q. So my understanding is that in your mind
7 there are no circumstances whatsoever in which
8 you, because of your strong beliefs, could
9 ever vote to impose a death sentence
10 notwithstanding the judge's instruction you
11 were to consider that as a possibility?

12 A. That's correct.

13 Q. You could not do that?

14 A. (Negative gesture), I don't think so.
15 I've thought long and hard about this this
16 weekend and prayed about it, feel like -- you
17 know, that's what I really believe in. So, I
18 could not.

19 THE COURT: Does the State have any
20 questions?

21 MR. BLOOM: I think it's my turn.

22 THE COURT: Excuse me, Mr. Bloom.

23 I'm sorry.

24 VOIR DIRE EXAMINATION

25 BY MR. BLOOM:

1 Q. Ma'am, no one is here to argue with your
2 beliefs. I just have a couple of followup
3 questions.

4 A. Sure.

5 Q. Are you able to set that belief aside and
6 listen to Judge Dennis's instruction and
7 evidence and if it was a case that in your
8 view warranted it, could you vote for death?
9 Or is your view so strong that you could never
10 set it aside?

11 A. (Pause) -- I could set it aside
12 temporarily but in my inner self that's just
13 the way that I believe. I mean, I could sit
14 there and listen but I don't think that I
15 could be persuaded to do that. Do you
16 understand what I'm saying?

17 Q. I do. When you say that you could set it
18 aside temporarily -- and, please, believe me
19 I'm not trying to get you to say one way or
20 another, or to put words in your mouth, but
21 could you take those beliefs and set them
22 aside enough to serve on a jury where the
23 ultimate punishment was at-issue and if there
24 were sufficient facts and circumstances, after
25 you were instructed on the law, could you set

1 that aside in a circumstance that you felt it
2 was appropriate to then vote for the death
3 penalty? Or can you not set it aside?

4 A. (No verbal response).

5 Q. And I am not trying to trick you or to put
6 words in your mouth. I just kind of need to
7 know.

8 A. I don't think I can.

9 Q. Fair enough. Is that a belief that you
10 hold as a matter of your religious faith, I
11 believe that you said?

12 A. It's just something that I -- (affirmative
13 nod).

14 Q. Just so the court reporter can take it
15 down, that would be a "yes", that it is a
16 religious belief?

17 A. Yes.

18 MR. BLOOM: Thank you, ma'am.

19 THE COURT: Anything else?

20 BRUCE DURANT: No, sir.

21 THE COURT: Thank you very much,

22 Ms. Setzehorn. I am going to excuse you from
23 further participation in this dispute. I want
24 to ask one question, though, to follow up on
25 something that was asked. I appreciate your

1 answer and I think that I understand that
2 answer. You said, 'I could set it aside
3 temporarily but it would bother me.' You
4 understand that what you do would be a
5 permanent decision, it would not be a
6 temporary decision and that you'd have to sign
7 your name -- part of the instruction, in
8 carrying out the instructions, you'd have to
9 sign your name to a form that says 'I vote for
10 a death sentence for this person.'

11 JUROR NUMBER 272: I understand.

12 THE COURT: Could you do that?

13 JUROR NUMBER 272: (Negative gesture).

14 THE COURT: As you sit here today,
15 I want to be sure -- I asked you this but I
16 want to be clear. You can't even conceive of
17 any circumstances that would even cause you to
18 want to set it aside, can you?

19 JUROR NUMBER 272: (Pause) --
20 honestly, I can't.

21 THE COURT: Thank you, ma'am. You
22 may step down. Any additional questions from
23 anyone?

24 MR. BLOOM: No, sir. Thank you
25 very much.

1 JUROR NUMBER 272: Thank you.

2 Have a great day. You don't even have to call
3 back. You've completed your service.

4 (JUROR NUMBER 272 EXITS COURTROOM)

5 THE COURT: I find that Ms.
6 Setzehorn is disqualified really because of
7 her inability to effectively serve as a juror
8 because her beliefs would substantially impair
9 her performance or duty as a juror in that in
10 fairness she even said, 'yeah, I could set it
11 aside and maybe consider it.' But the problem
12 that we have in our case law in this state is
13 that until she could actually sentence someone
14 to death, that -- just considering it is not
15 sufficient.

16 Furthermore, the problem that I have
17 for her to even get to that threshold point of
18 'I could set it aside', as she said
19 "temporarily", her statement was that 'I can't
20 even think of a situation where it would cause
21 me to want to do that in the first place.'
22 That's further impairment.

23 I understand that she has relied on
24 religious belief and -- the State has no
25 objection to her being disqualified, Mr.

1 Durant?

2 BRUCE DURANT: Not at all, Judge.

3 THE COURT: Mr. Bloom, I will be
4 delighted to hear from you. I assume your
5 objection will continue as previously stated?

6 MR. BLOOM: The same, Your Honor.

7 THE COURT: Thank you.

8 MR. BLOOM: To a juror who, as she
9 has, stated her religious beliefs, under the
10 First, Eighth and Fourteenth Amendments.
11 Thank you.

12 THE COURT: Thank you so much. I
13 appreciate that being preserved for review,
14 because it needs to be addressed if the Court
15 chooses to do so. Thank you.

16 MR. BLOOM: Thank you, Your Honor.

17 THE COURT: Let's bring in our next
18 juror, Juror 148, Samantha Iorio.

19 (JUROR NUMBER 148 ENTERS COURTROOM)

20 THE COURT: Good afternoon, how are
21 you?

22 JUROR NUMBER 148: Fine. How are
23 you?

24 THE COURT: Great. Thank you. I
25 appreciate your being patient with us. We are

1 ready to continue the process that we started
2 on Friday. There are some questions that we
3 need to ask of you.

4 I need for you, if you will, to sit
5 and pull yourself up so that you can speak
6 into that mic comfortably.

7 First, would you please state your
8 full name for the record.

9 JUROR NUMBER 148: Samantha Ann Iorio.

10 THE COURT: Ms. Iorio, thank you
11 for being here. We want to ask you some
12 additional questions. I will have some
13 questions for you, and the attorneys as well
14 will have some questions for you. None of
15 these questions today, they are very similar
16 to those that we asked on Friday. There are
17 no "correct" answers to any of them.

18 Also, please know that we are not
19 here to challenge any beliefs that you have or
20 philosophies that you may have. You are
21 entitled to those and we do not wish you or
22 want you to think that you have to defend them
23 for any reason whatsoever. All that we ask is
24 that you be candid and truthful in responding
25 to the questions and that you answer the

1 questions completely. Will you do that?

2 JUROR NUMBER 148: Yes, sir.

3 THE COURT: I would remind you,
4 ma'am, that you are still under oath in this
5 matter.

6 JUROR NUMBER 148: Okay.

7 SAMANTHA IORIO, being duly sworn to
8 tell the truth, the whole truth and nothing
9 but the truth, testified, as follows:

10 VOIR DIRE EXAMINATION

11 BY THE COURT:

12 Q. Since we were together on Friday, have you
13 talked with anyone, permitted anyone to talk
14 with you or talked to anyone, permitted anyone
15 to talk to you about this case or talk about
16 it in your presence?

17 A. Actually at my job there's been several
18 people talking about it because of all that's
19 been in the newspaper, but I've done my best
20 to leave the area and not participate.

21 Q. Do you recall anything that anybody has
22 said about the case?

23 A. Just that the jury selection was under
24 way. I think that there was one person that
25 was selected. That's about it.

1 Q. Nothing that you heard or the fact that
2 they've been talking about it would in any way
3 affect your ability to be a fair and impartial
4 juror?

5 A. No, sir.

6 Q. You realize that if you were on the jury
7 that you would make a commitment to decide the
8 case based on what happens in this courtroom.
9 That is, you would decide it based on the
10 evidence and the law?

11 A. Yes, sir.

12 Q. And that would not influence or affect
13 that in any way; is that correct?

14 A. (Affirmative nod). No.

15 Q. On Friday, I mentioned a number of names
16 but I failed to mention two names that I need
17 to ask you about. Are you related by blood or
18 marriage, have any business dealings with or
19 socially or casually acquainted with or have
20 any dealings with a Jeff Osborne or a Matt
21 Casey?

22 A. No.

23 Q. You were given a sheet when you came in
24 today that sets forth three types of jurors,
25 have ---

1 A. Right.

2 Q. --- you had a opportunity to review that
3 sheet?

4 A. Yes, sir.

5 Q. You've had an opportunity to consider the
6 three types of jurors and decided one most
7 accurately describes you?

8 A. Yes, sir.

9 Q. Which one is it?

10 A. Type three.

11 Q. Okay. Tell me what that means to you, a
12 type three? What do you mean?

13 A. Type three means that if the defendant is
14 found guilty that I have predetermined
15 personally against the death penalty, for the
16 death penalty, or if I am willing to make a
17 decision on a sentence based on the evidence
18 provided in court.

19 Q. So basically you would be the person that
20 does not have any predetermination?

21 A. (Affirmative nod). No.

22 Q. Either way?

23 A. Correct.

24 Q. Life imprisonment without the possibility
25 of parole or a death sentence?

1 A. Correct.

2 Q. Let's talk about this abstract case in
3 which that juror appeared and, assuming you
4 are the type three that you just talked about,
5 okay?

6 A. Okay.

7 Q. Obviously at that stage the sheet
8 represents, the jury -- you included -- would
9 have heard the first phase. You would have
10 completed that, because the person accused of
11 the crime of murder, you would have returned a
12 verdict of guilty of murder. Okay?

13 A. Um-humm.

14 Q. That means that you will have honored that
15 oath that you took, at least as to the first
16 phase, in that you would have had an open mind
17 before you started; you wouldn't have had any
18 predetermination as to that person's guilt or
19 -- other than the fact that you would see him
20 or her innocent, as the law requires you to
21 do. Do you understand that?

22 A. Hummm, (affirmative nod).

23 Q. And you wouldn't change that until you
24 heard all of the evidence and been convinced
25 beyond a reasonable doubt that the elements of

1 that crime of murder had been established and
2 that's what would have happened, but until you
3 reach that point you would have presumed that
4 person was innocent. You would have done
5 that, is that correct?

6 A. Yes, sir.

7 Q. And you would have followed the court's
8 instruction by returning that verdict. Murder
9 in this case, murder for the purposes of what
10 we'll be talking about in this abstract case
11 means that the person has been found guilty of
12 killing another person with malice
13 aforethought.

14 That means, first of all, that the State
15 had the right person. No question in your
16 mind about that. You were satisfied beyond a
17 reasonable doubt that that was the person.

18 A. Um-humm.

19 Q. And, number two, there's no question --
20 there would be no question in your mind that
21 the killing of that person was in fact murder
22 and not, in this state, -- in this state the
23 only two other considerations that you would
24 have in a murder case would be manslaughter
25 and involuntary manslaughter.

1 In some states they call them murder first
2 degree, second degree, third degree.

3 We don't have that in South Carolina.

4 But what you'd have is that the jury may
5 consider in some situations manslaughter and
6 involuntary manslaughter. You would have
7 ruled those out. Manslaughter is when you
8 kill someone in the sudden heart of passion.
9 In other words, you've been provoked to a
10 point where you couldn't control yourself and
11 you killed somebody.

12 A. Okay.

13 Q. It's not that.

14 A. Okay.

15 Q. Murder is not that, doesn't have anything
16 to do with that.

17 A. Okay.

18 Q. Other than being that you killed somebody.

19 A. Okay.

20 Q. The second one, involuntary manslaughter
21 is when you acted recklessly -- you may not
22 have even intended it but you acted recklessly
23 and someone died and, therefore, it was
24 involuntary manslaughter.

25 A. Okay.

1 Q. It's not that either.

2 A. Okay.

3 Q. This is where somebody, you convicted a
4 person who wanted to kill somebody, they
5 intended to kill that person, they had malice,
6 they were motivated by an evil spirit or an
7 ill heart, ill will, and they went out and
8 carried it out.

9 A. Okay.

10 Q. Okay?

11 A. (Affirmative nod).

12 Q. As I understand from what you told me, as
13 a type three it doesn't matter -- you still
14 don't have an idea at this point because you
15 haven't gone through the second phase. Is
16 that correct?

17 A. Correct.

18 Q. Would you agree with me that that is
19 important as a juror to have an open mind?

20 A. Yes, sir.

21 Q. Before you start the process?

22 A. Yes, sir.

23 Q. I would find -- I think that's one of the
24 -- one of the traits that probably one of the
25 necessary characteristics of a juror, that

1 they have an open mind.

2 A. (Affirmative nod).

3 Q. Because if you start it with any
4 predetermination, then you haven't been true
5 to your oath of being fair and impartial.

6 Have you?

7 A. Correct.

8 Q. Now, obviously type one and type two in
9 that situation, there may be strong feelings
10 that they have but for whatever reason, either
11 they didn't disclose it but they didn't have
12 an open mind when they started that second
13 phase. Did they?

14 A. Correct.

15 Q. Because they said, 'Okay, we've convicted
16 you of murder, now I believe that the sentence
17 should be death as to type one. Type two
18 says, 'Okay, we convicted you of murder and
19 now it's my belief that it ought to be life
20 imprisonment.'

21 A. Correct.

22 Q. In every situation?

23 A. (Affirmative nod).

24 Q. But that's not you?

25 A. No, sir.

1 Q. That's important because, first of all, it
2 honors the oath that you took and the law;
3 secondly, it's important for this reason: in
4 this state, normally a jury is not involved in
5 sentencing. The jury would be involved in
6 what has occurred in this abstract case, that
7 is determining the first phase, determining
8 whether the State has met its burden of proof
9 but once a jury returns a verdict and said,
10 'Judge, we've found him guilty of murder',
11 that would be it. The judge would say, 'Thank
12 you very much, you're excused.' Then the
13 judge would decide the sentence.

14 The sentence in that setting, if that were
15 to be the case, the maximum sentence that the
16 judge could impose would be life imprisonment
17 without the possibility of parole.

18 A. Okay.

19 Q. He doesn't have to. He could impose a
20 lesser sentence but that's the maximum
21 sentence. A judge could never impose a death
22 sentence in that setting. Okay?

23 A. Okay.

24 Q. And the law says that's the way that it
25 normally is unless something happens, and that

1 is that the State elects to pursue the death
2 penalty in cases where the State says that it
3 warrants it because the State claims that
4 there are aggravating circumstances which
5 exist that justify it. Our legislature has
6 provided a number of aggravating circumstances
7 which a juror in the second phase first has to
8 determine; that is, whether or not the State
9 has proven -- if the State proves that beyond
10 a reasonable doubt. That's part of what that
11 second phase will deal with because that's a
12 factor to be considered in fashioning a
13 sentence, obviously.

14 A. Right.

15 Q. It makes the crime of murder worse and it
16 gives, in essence, the jury the right to even
17 consider it in the first place. The
18 instruction would start, basically, or part of
19 it would say, 'Ladies and Gentlemen, if after
20 you have deliberated, considered all the
21 evidence, you aren't convinced beyond a
22 reasonable doubt that the State has
23 established at least one aggravating
24 circumstance, you can't even consider a death
25 sentence, you must return life imprisonment

1 without the possibility of parole.'

2 A. I understand.

3 Q. Would you have any problem following that
4 instruction?

5 A. No, sir.

6 Q. All right. Thank you. Now, aggravating
7 circumstances, there are a number. Let me
8 just tell you, so that you will understand --
9 for instance, in that case if it were the
10 killing of a police officer or of a child,
11 those are listed as aggravating circumstances,
12 so the jury would consider. Some of that
13 you've already heard because you've already
14 decided that the victim in that first case was
15 a police officer. So the State would be
16 entitled to rely on that if you had already
17 found that they'd killed the person, then
18 obviously the question would be whether the
19 person was a police office. If you found that
20 beyond a reasonable doubt then that
21 aggravating circumstance would have been
22 established. Do you understand that?

23 A. Yes, sir.

24 Q. That's the process. You go through that
25 in analyzing the evidence to see whether or

1 not that aggravating circumstance had been
2 established.

3 Assuming just for the sake of our
4 discussion here today that you had concluded
5 that an aggravating circumstance in that
6 abstract case had been established. The
7 charge would go on to say that then you may
8 consider, in addition to life imprisonment
9 without the possibility of parole, a death
10 sentence. It would say also -- but that
11 doesn't mean that you have to return a death
12 sentence.

13 A. Right.

14 Q. In other words, just because you found
15 aggravating circumstances the court would
16 never tell you that you must therefore return
17 a death sentence. It simply says that now you
18 make the call, you decide which one is the
19 appropriate sentence considering all the
20 evidence and all the circumstances. Do you
21 understand that?

22 A. Yes, sir.

23 Q. As I understand, as the type three juror,
24 you would then be able to analyze that
25 evidence, decide for yourself what you believe

1 to be the truth and then once making that
2 decision, considering all the evidence and
3 following that instruction, in some situations
4 -- and I'm not asking you to tell me what they
5 are, but in some situations you can foresee
6 and conceive of saying, 'I believe this
7 warrants the death penalty', in both of those.
8 Is that correct?

9 A. Yes, sir.

10 Q. And, likewise, there are situations that
11 while you may have the right or the option of
12 imposing a death sentence, you may say 'well,
13 we have the right to but in this situation I
14 think the most appropriate punishment is not a
15 death sentence but life imprisonment without
16 the possibility of parole.' Is that correct?

17 A. Yes, sir.

18 Q. And you could fairly and impartially
19 consider the evidence and determine which one
20 you think was best?

21 A. Yes, sir.

22 Q. That is important because I -- I would
23 also tell you that part of that instruction,
24 in addition to aggravating circumstances, is
25 some other evidence that you may hear

1 concerning the appropriateness of a death
2 sentence. You may hear something that we call
3 mitigating circumstances, some of them are
4 defined by statute and some are just
5 nonstatutory. They are just common sense
6 mitigating circumstances. Our law says that
7 these are circumstances -- some examples of
8 statutory are the person was suffering from
9 some addiction and that affected the person.
10 The person had some problems, abuse in
11 childhood or that sort or -- or the person has
12 some mental health issues that wouldn't
13 justify or excuse it, but gave you a reason to
14 -- gives a jury a reason, 'that explains why
15 they may have done or acted in the way that
16 they did.' Again, it is not -- it doesn't
17 excuse anything but it just gives you
18 something that you would further consider.

19 I would instruct you that if you find
20 those mitigating circumstances, that you must
21 give serious and meaningful consideration to
22 those circumstances.

23 They would be important to you in
24 fashioning a sentence, I would assume. Is
25 that correct?

1 A. Yes, sir.

2 Q. And you'd want to consider those and would
3 consider those before you determined a
4 sentence?

5 A. Yes, sir.

6 Q. I would instruct you of course in that
7 abstract case, just as I would in any criminal
8 dispute, that the person accused of that
9 offense didn't have any burden to prove
10 anything to you at any stage, first or second
11 stage. In fact, they didn't have to testify,
12 they didn't have to offer evidence and if they
13 chose not to testify or offer any evidence,
14 whether in the first or second phase, you
15 couldn't use that against them in any way.
16 Would you be able to follow that instruction,
17 too?

18 A. Yes, sir.

19 Q. That would mean, of course, in analyzing
20 it, if there weren't any mitigating
21 circumstances for you to consider, then you
22 can't hold that against them. Would you be
23 willing to -- could you do that?

24 A. Yes, sir.

25 Q. Okay. And that's important because

1 another part of that charge would say this,
2 that as a member of that jury deciding on the
3 appropriate sentence and you're to that point
4 where you'd have the option, you can impose --
5 as I stated, life imprisonment without the
6 possibility of parole or you can impose a
7 death sentence and you can have a reason and
8 rationale basis for doing so. Or, you can
9 impose a life imprisonment without the
10 possibility of parole for no reason if you
11 chose to. Do you understand that?

12 A. Um-humm.

13 Q. That would be part of that instruction?

14 A. Yes, sir.

15 Q. And you would be able to do that fairly
16 and impartially as well?

17 A. Yes, sir.

18 Q. And make that ultimate decision, given all
19 those options and all that factors that you
20 would have to consider, you would give
21 meaningful consideration in evaluating the
22 evidence?

23 A. Yes, sir.

24 Q. And let me now depart from this abstract
25 case -- thank you very much for asking those

1 questions ---

2 A. Yes, sir.

3 Q. --- and ask you, concerning this
4 particular case, and you understand, as I
5 mentioned to you, that Mr. Dickerson has been
6 accused of committing several criminal
7 offenses. You understand that?

8 A. Yes, sir.

9 Q. And I believe that you indicated to me, by
10 not responding, that you had no problem with
11 the principle of law that persons who are
12 accused of such violations are presumed
13 innocent.

14 A. Right.

15 Q. And you just said that early in the
16 abstract setting?

17 A. (Affirmative nod).

18 Q. So today as he sits here, it's an active
19 presumption.

20 A. Right.

21 Q. We have to actively see him as innocent.

22 A. Right.

23 Q. You don't have any problem -- Mr.
24 Dickerson is innocent, as far as you're
25 concerned?

1 A. Yes, sir.

2 Q. And you would promise to keep that mindset
3 until you were instructed to begin your
4 deliberation and change only when, after
5 considering all the evidence and the law, you
6 were convinced beyond a reasonable doubt that
7 he was guilty of one or more offenses?

8 A. Correct.

9 Q. Okay. You could -- there's nothing that
10 you've heard in this case that would cause you
11 any concern or give you any concern about your
12 ability to apply your common sense, your sense
13 of logic and reasoning and your life's
14 experiences in fairly and impartially
15 analyzing the evidence.

16 A. That's correct.

17 Q. I believe that you have stated through-
18 out, and I ask you again, you have an open
19 mind about this case?

20 A. Yes, sir.

21 Q. And you're willing and able to follow the
22 law as I give it to you and apply that law
23 fairly and impartially and, if necessary, set
24 aside anything that you hear in the law that
25 may be at some conflict with some belief that

1 you have or strong feeling that you have?
2 Obviously I would never tell you to do
3 something illegal because what I will tell you
4 will be the law. But if your recollection is,
5 'Well, I didn't know the law was that' or 'I
6 don't think that should be the law' or 'I
7 thought it was such-and-such', you'd set aside
8 those personal belief; is that correct?

9 A. Yes, sir.

10 THE COURT: Thank you, ma'am.
11 Please answer any questions that the attorneys
12 may have.

13 VOIR DIRE EXAMINATION

14 BY BRUCE DURANT:

15 Q. Good afternoon, Ms. Iorio. My name is
16 Bruce Durant. I am the Deputy Solicitor.
17 This is Scarlet Wilson, she is the Solicitor.
18 This is Rutledge Durant, an Associate
19 Solicitor in our office and we'll be trying
20 this case on behalf of the State.

21 I get an opportunity now to ask you a
22 couple of questions now in followup to what
23 the judge asked. I want to start off by
24 asking, 'What is your opinion of the death
25 penalty?'

1 A. I really had not thought of it before

2 because I've never been ---

3 Q. (Affirmative nod), in that situation.

4 A. --- in that situation, (affirmative nod).

5 But, I mean, I am a very fair person, open

6 minded, so -- (pause) -- and I still don't

7 really have an opinion about it, you know, how

8 to really be convinced of this part.

9 Q. That's fair. My question is, can you
10 envision circumstances where it would be
11 warranted?

12 A. Uh -- yes.

13 Q. I am not going to ask you what those area,
14 but could you follow the Judge's instruction
15 when he is telling about aggravating
16 circumstances or mitigating circumstances
17 where you can't even consider the death
18 penalty?

19 A. Yes. And are you willing to give those
20 aggravating circumstances due consideration if
21 we prove them beyond a reasonable doubt as we
22 are required to do?

23 A. Yes, sir.

24 Q. And you've already said that you could
25 consider mitigating circumstance if the

1 defendant decided to put up any mitigating
2 circumstances and that you could concern
3 mercy, as well; is that correct?

4 A. Yes.

5 Q. But my question is this, if it comes to in
6 the case that you're a setting juror in a
7 capital case and if it was the collective
8 opinion of the juror that the defendant should
9 be put to death, could you sign your name to a
10 verdict form putting another human being to
11 death?

12 A. If I had no doubts that was the person,
13 (affirmative nod).

14 Q. Thank you.

15 THE COURT: Mr. Bloom.

16 VOIR DIRE EXAMINATION

17 BY MR. BLOOM:

18 Q. How are you doing today, Ms. Iorio?

19 A. Fine.

20 Q. Good. My name is Jeff Bloom and along
21 with Andrew Carroll, who is out of the
22 courtroom right now, we represent William
23 Dickerson. Let me follow up to your last
24 remark to Solicitor Durant, which was 'if I
25 had no doubt.'

1 Can you just explain to me -- I think I
2 know what you meant but I don't want to
3 assume. Can you tell me what you meant by
4 that?

5 A. You know, if there was some doubt that the
6 person is guilty and there was extreme,
7 violent behavior that was premeditated and
8 that person shows no remorse, no care, no care
9 for the human life of himself, you know, I
10 think it would have to be a collective of
11 everything for me to be convinced that another
12 person does not deserve to live.

13 Q. Fair enough. Thanks for explaining that
14 to me.

15 A. You're welcome.

16 Q. And when you said that it would have to be
17 a violent death, you understand, as Judge
18 Dennis defined murder for you, it is that
19 malice murder, that violent act.

20 A. Yes.

21 Q. That some people, just because they find
22 someone guilty of a malice murder and a
23 violent act, they automatically vote for the
24 death penalty at that point in time. That's
25 not you?

1 A. No.

2 Q. Okay. I just wanted to make sure that I
3 followed up with that.

4 Next let me ask you, Judge Dennis also
5 defined mitigating circumstances and just to
6 reorient you to that, it's a -- he gave you a
7 bunch of possible examples, background,
8 upbringing, drug abuse, addiction, mental
9 health. Those are things that you are able to
10 consider?

11 A. Yes, sir.

12 Q. There is nothing in your background or
13 opinions that would cause you not to listen to
14 that subject matter?

15 A. No.

16 Q. Finally, as Judge Dennis explained the
17 process to you, you understood that he said
18 the law never requires any jury to vote for
19 the ultimate punishment.

20 A. Correct.

21 Q. Once you have heard everything, you have
22 gone through the whole process it is totally
23 up to you as a juror, do you understand that?

24 A. Yes, sir.

25 Q. The law calls that a individualized,

1 reasoned moral judgment. Can you accept that?

2 A. Yes, sir.

3 Q. And once you've heard all the evidence,
4 all the circumstances, Judge Dennis'
5 instructions on the law, then with the eleven
6 other jurors you'all had discussed it, you'd
7 debated it, you'd gone around, you'd listened
8 to them, they had listened to you, and if
9 eleven jurors were voting one way but you were
10 voting anther way and you had come to your
11 individualized, reasoned moral judgment could
12 you stand your ground?

13 A. Yes, sir.

14 Q. What I am asking is, you wouldn't just
15 say, 'You know what? It's late. I'm ready to
16 go home to dinner. I am just going to go
17 along to get along.'

18 A. No, because of my conscience, I could not
19 do that.

20 Q. I believe that answer from all your others
21 but you know why I kind of have to ask that?

22 A. (Affirmative nod), yes, sir.

23 Q. You'd expect those other jurors to respect
24 your vote?

25 A. As you would respect theirs?

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1 A. Yes, sir.

2 MR. BLOOM: Thank you.

3 THE COURT: Any further questions,
4 Mr. Durant.

5 BRUCE DURANT: No, sir, Your
6 Honor.

7 THE COURT: Thank you, ma'am. If
8 you would step out just for a moment, we will
9 be with you shortly.

10 (JUROR NUMBER 148 EXITS COURTROOM)

11 THE COURT: I find that she is
12 qualified. Any objection?

13 BRUCE DURANT: No, sir.

14 THE COURT: Any objection from Mr.
15 Dickerson?

16 MR. BLOOM: No, Your Honor.

17 THE COURT: Ask her to step in,
18 please.

19 (JUROR NUMBER 148 ENTERS COURTROOM)

20 THE COURT: Thank you so much.
21 Thank you for your patience. Thank you very
22 much, and I appreciate your patience. You've
23 been found to be qualified to be a member of
24 the panel from which we will select our jury.
25 That process will take place in the morning at

1 9:30. I need for you to come back tomorrow.

2 When you come back, come directly to this
3 courtroom. You will see other jurors that
4 will be seated in the audience and you can
5 just take a seat out there with them.

6 We will select our jury and our plans
7 are to then, after we have empaneled the jury,
8 to begin the trial of the case. So please be
9 prepared to stay tomorrow should you be on the
10 jury.

11 Until then and until you have been
12 dismissed from this case, please remember that
13 you still are not at liberty to discuss this
14 case with anyone or permit anyone to talk with
15 you about it. Also, please continue not to
16 watch any news programs about it or read any
17 news accounts. Have a great day and we'll see
18 you in the morning.

19 (JUROR NUMBER 148 EXITS COURTROOM)

20 THE COURT: Juror Number 357, Ms.
21 Dawson.

22 (JUROR NUMBER 357 ENTERS COURTROOM)

23 THE COURT: Ms. Dawson, good
24 afternoon.

25 JUROR NUMBER 357: Good afternoon.

1 THE COURT: Thank you for your
2 patience. We appreciate it. I know you've
3 been there for a while and we won't keep you
4 much longer. Please take your seat. If you
5 will sit and pull yourself up so that you can
6 speak into that mic comfortably.

7 We want to ask you some questions,
8 continuing the process that we started on
9 Friday. Please, as you noticed on Friday none
10 of these questions today, just as those on
11 Friday, they don't have any correct answers to
12 any of them. Nobody is here to challenge any
13 beliefs that you have or strong feelings that
14 you have. You're entitled to those.

15 All that we ask is that you responded
16 truthfully to my questions, respond candidly,
17 and completely. Will you do that?

18 JUROR NUMBER 357: To the best that I
19 can, to the best of my ability.

20 THE COURT: All right. I need for
21 you to get to where you can speak into that
22 mic, because -- that mic, you have to sit
23 pretty close to it for it to work.

24 Will you state your full name for the
25 record, please?

1 JUROR NUMBER 357: Leverne Priscilla

2 Dawson.

3 THE COURT: Ms. Dawson, I would
4 remind you that you're still under oath in
5 this matter. Is that agreeable with you?

6 JUROR NUMBER 357: Yes.

7 LEVERNE DAWSON, being duly sworn to
8 tell the truth, the whole truth and nothing
9 but the truth, testified, as follows:

10 Q. Since we were together on Friday, have you
11 talked with anyone, permitted anyone to talk
12 with you about this case or talk about it in
13 your presence?

14 A. No.

15 Q. Have you watched any news accounts or read
16 any newspaper articles about it?

17 A. Well, there was a paper in the conference
18 room but I didn't read it.

19 THE COURT: Let's check that
20 immediately.

21 JUROR NUMBER 357: Yeah, there was a
22 paper.

23 THE COURT: You didn't read the
24 paper, did you?

25 JUROR NUMBER 357: No, sir.

1 THE COURT: Just bring it in when
2 you -- if you will, please. Thank you.

3 EXAMINATION CONTINUED

4 BY THE COURT:

5 Q. So you haven't read anything about this,
6 have you?

7 A. No, sir.

8 Q. I need to ask you. On Friday, I mentioned
9 a number of names but I failed to mention two
10 names that I need to ask you about. Are you
11 related by blood or marriage, have any
12 business dealings with or socially or casually
13 acquainted with or have any dealings with Jeff
14 Osborne or Matt Casey?

15 A. No.

16 Q. You were given a sheet when you came in
17 that sets forth three types of jurors, have
18 you had a opportunity to review that sheet?

19 A. Yes, sir.

20 Q. After thinking about it, which type most
21 accurately describes you?

22 A. Type two, sir.

23 Q. Tell me ---

24 THE COURT: If you (bailiff) would
25 just hold onto that paper for it.