

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

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Appellate Case No. 2018-001499

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WILLIAM O. DICKERSON .....PETITIONER,

v.

STATE OF SOUTH CAROLINA.....RESPONDENT.

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APPENDIX  
VOLUME 9 OF 22

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**ELIZABETH FRANKLIN-BEST**  
SC Bar No. 72555  
Blume Franklin-Best & Young, LLC  
900 Elmwood Ave., Suite 200  
Columbia, SC 29201  
(803) 765-1044  
*Counsel for Petitioner*

**MELODY BROWN**  
Office of the Attorney General  
P.O. Box 11549  
Columbia, SC 29211  
*Counsel for Respondent*

## INDEX

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

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

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



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

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

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

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

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

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

STEVO RIVERS

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

BENJAMIN DRAYTON

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

ANTONIO NELSON

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

DEVON KEELING

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

|                   |      |
|-------------------|------|
| COLLOQUY. . . . . | 2459 |
|-------------------|------|

TOMISHA “SHELLEY” NELSON

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

DARREN PROIETTI

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

KIMBERLY RENEE GREGG

|                                           |      |
|-------------------------------------------|------|
| Direct Examination by Ms. Wilson. . . . . | 2603 |
|-------------------------------------------|------|

STEVEN ARCHIE

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

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



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

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

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

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

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

|                                         |      |
|-----------------------------------------|------|
| JAMES AIKEN                             |      |
| Direct Examination by Mr. Bloom. ....   | 4163 |
| Cross Examination by Mr. Durant. ....   | 4186 |
| Redirect Examination by Mr. Bloom. .... | 4193 |
| Recross Examination by Mr. Durant. .... | 4196 |
| BARRY BRITT                             |      |
| Direct Examination by Mr. Carroll. .... | 4205 |
| Cross Examination by Mr. Durant. ....   | 4210 |
| ALEXANDER MORTON                        |      |
| Direct Examination by Mr. Bloom. ....   | 4214 |
| Cross Examination by Mr. Durant. ....   | 4283 |
| Redirect Examination by Mr. Bloom. .... | 4293 |
| JOHNETTE R. WATSON                      |      |
| Direct Examination by Mr. Bloom. ....   | 4295 |
| Cross Examination by Ms. Wilson. ....   | 4303 |
| TIERRA MCINTOSH                         |      |
| Direct Examination by Mr. Bloom. ....   | 4304 |
| JOHNNIE K. RIVERS                       |      |
| Direct Examination by Mr. Bloom. ....   | 4311 |
| Cross Examination by Mr. Durant. ....   | 4328 |
| Redirect Examination by Mr. Bloom. .... | 4339 |
| Recross Examination by Mr. Durant. .... | 4343 |
| MOTIONS. ....                           | 4346 |
| MARY E. RANKIN                          |      |
| Direct Examination by Mr. Bloom. ....   | 4357 |
| Cross Examination by Mr. Durant. ....   | 4365 |
| Redirect Examination by Mr. Bloom. .... | 4368 |
| MARJORIE HAMMOCK                        |      |
| Direct Examination by Mr. Bloom. ....   | 4369 |
| Cross Examination by Mr. Durant. ....   | 4425 |
| Redirect Examination by Mr. Bloom. .... | 4440 |
| DORIS GAMBLE                            |      |
| Direct Examination by Mr. Bloom. ....   | 4445 |
| Cross Examination by Ms. Wilson. ....   | 4448 |

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

## **EXHIBITS**

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



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

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

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

## **EXHIBITS**

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

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

## **EXHIBITS**

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

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

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

## **EXHIBITS**

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

1 BY BRUCE DURANT:

2 Q. Specifically are you familiar with the  
3 situation occurring at the Detention Center on  
4 October the 28<sup>th</sup> and October the 29<sup>th</sup> of 2007  
5 where he was found guilty of inciting a riot  
6 at the jail?

7 A. Yes, sir.

8 Q. Could you tell the judge about that?

9 A. We had a situation where Mr. Dickerson and  
10 other inmates were asked, were going to be  
11 moved to another cell. They turned down and  
12 refused to go.

13 Q. What happened when they refused to be  
14 moved to another cell?

15 A. The supervisor then in turn decided to  
16 contact the SWAT team. And then the SWAT team  
17 and our team got together and decided to go  
18 into the cell and actually move Mr. Dickerson  
19 to the other cell.

20 Q. And how long did the standoff last between  
21 the personnel at the detention center and the  
22 folks in this particular cell?

23 A. When we became involved it was actually  
24 the second day.

25 Q. And then this -- the standoff had extended

1 into a second day; is that correct?

2 A. Yes, sir.

3 Q.. How many inmates were in that cell, and  
4 could you describe what the standoff was?

5 A. The cell was actually at full capacity.  
6 It could have been anywhere between about --  
7 anywhere from sixty to a hundred inmates in  
8 that cell.

9 Q. Did some of the other inmates become  
10 involved in this as well?

11 A. Yes, sir.

12 Q. Involved in what regard or what capacity?

13 A. They were actually blocking the vision of  
14 us being able to see Mr. Dickerson. We  
15 couldn't see where they were because they were  
16 blocking our view.

17 Q. Now, moving on to the next day when the  
18 TAC team or the SWAT team became involved.  
19 Tell the judge about that.

20 A. We initially were going to allow the  
21 inmates that were not going to be involved or  
22 wanted to not be involved to exit the unit.  
23 And actually prior to that we had told anyone  
24 willing to exit to exit so that they wouldn't  
25 in the way of tasers or whatever if something



1 got out of hand. So we actually had to have  
2 weapons and allowed anyone to exit the cell  
3 that did not want to be involved.

4 Q. Were the inmates given that opportunity?

5 A. Yes, sir. However, in the midst of  
6 allowing other inmates to come out, that's  
7 when Mr. Dickerson also came out.

8 Q. And how did that come out? Please explain  
9 that a little bit.

10 A. Okay, as we were allowing the inmates to  
11 come out one at a time to move to another  
12 area, one at a time so that we could keep them  
13 secured, that's when Mr. Williams and Mr.  
14 Dickerson came to the door, individually, and  
15 they were immediately recognized and secured.

16 Q. And you mentioned something when we spoke  
17 earlier in my office about they tried to sneak  
18 out amongst the other inmates. Is that  
19 correct?

20 A. Initially, it was just for inmates who  
21 asked not be involved at the time. So they  
22 came up and I guess were trying to just get  
23 out with those guys.

24 Q. Moving on to December 7 of 2008, were you  
25 involved in another incident that involved

1 Defendant William Dickerson?

2 A. Yes, sir.

3 Q. Could you tell the judge about that?

4 A. We were conducting a unit search in which

5 ---

6 Q. Who is "we"?

7 A. Officer Acker, Officer Walker, Officer

8 Huggins and myself.

9 Q. Okay.

10 A. We were conducting a cell search in which

11 we were checking each individual cell,

12 checking to see whether there was any

13 contraband inside those cell. And if there

14 was, we were to remove it.

15 Q. Where, in general, were you'all checking

16 cells?

17 A. This was Unit 1A.

18 Q. What is Unit 1A at the jail?

19 A. Unit 1A is the disciplinary unit and where

20 we house inmates that are in protective

21 custody.

22 Q. And had you'all already conducted a

23 contraband sweep on some of the other cells in

24 Unit 1A?

25 A. Yes, sir. We were actually -- we were

1 almost done, we only had about three more  
2 cells left.

3 Q. And who was in Cell 1236A?

4 A. Inmate William Dickerson and Inmate John  
5 Williams.

6 Q. And could you tell the judge what happened  
7 when you'all proceeded to do the contraband  
8 sweep on that particular cell?

9 A. When we arrived at the cell we immediately  
10 asked both inmates to get dressed so that they  
11 could come out of the cell.

12 Q. Did they comply?

13 A. Not immediately; no, sir.

14 Q. What did they do?

15 A. They hesitated at first, then they both  
16 finally got up, got dressed, and start  
17 rumbling through their property. They were  
18 asked to exit the cell but -- once again we  
19 were insisting that they come out of their  
20 cell, but once again they just kept going  
21 through their property.

22 Q. Did they eventually get dressed and come  
23 out of the cell?

24 A. Well, what happened, we -- after they had  
25 gotten dressed, we saw that Mr. Dickerson had

1     like several type long-john shirts and had two  
2     plastic bags full of water. And as he pulled  
3     the shirt out, he actually broke one of the  
4     plastic bags.

5     Q. What did they use plastic bags filled with  
6     water for?

7     A. Well, for the purpose of exercising. They  
8     use them like a dumb bell.

9     Q. Is the plastic bag considered contraband?

10    A. Yes, sir. They're not supposed to have  
11    it.

12    Q. Do you know why that is?

13    A. It can be used to harm another inmate,  
14    suffocation.

15    Q. What happened when you -- where did he  
16    have the water-filled plastic bags?

17    A. On the bunk.

18    Q. And what happened after he popped the  
19    plastic bag and the water spilled everywhere?

20    A. Once again we asked him to exit the cell.  
21    At the time the door was open. Mr. Williams  
22    made an attempt to step out of the cell,  
    however as ---

24    Q. Did Mr. Dickerson come out of the cell?

25    A. He was actually still in the cell.

- 1 Q. So Mr. Williams came out of the cell?
- 2 A. He was -- he made an attempt to come out
- 3 the door. However, he doubled back to assist.
- 4 That's when Mr. ---
- 5 Q. We're talking about Mr. Williams now, not
- 6 Mr. Dickerson?
- 7 A. Right. Mr. Williams.
- 8 Q. Just so I'm clear, Inmate Williams came
- 9 out of the cell?
- 10 A. Almost, just about.
- 11 Q. Or was coming out of the cell?
- 12 A. Right.
- 13 Q. Which detention officer went into the
- 14 cell?
- 15 A. Officer Asher.
- 16 Q. Then Mr. Williams did what?
- 17 A. He immediately turned back with his fist
- 18 balled up at Officer Asher.
- 19 Q. Did Officer Asher know this was going on?
- 20 A. No.
- 21 Q. He has his back to Mr. Williams?
- 22 A. He was actually facing Mr. Dickerson.
- 23 Q. Then what happened?
- 24 A. When he turned to go back, that's when
- 25 Officer Walter arrived and grabbed his

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.

3370

1 uniform. When he grabbed his uniform, I in  
2 turn grabbed him as well, too, to pull him out  
3 of the cell.

4 Q. Who was engaged with Inmate Williams?

5 A. Officer Walker.

6 Q. Were you engaged with Inmate Williams too?

7 A. Eventually I was helping pull him out of  
8 the cell.

9 Q. And then what happened?

10 A. Immediately when that occurred, there was  
11 a -- that's when Officer Asher came back out  
12 of the cell to try to assist. At this time,  
13 when he made the attempt to assist, that's  
14 when Inmate Dickerson came up behind him and  
15 grabbed him by the waist and took him to the  
16 ground.

17 Q. And what happened when Inmate Dickerson  
18 grabbed him and threw him to the ground?

19 A. That's when Officer Williams came charging  
20 in to assist. He was also grabbing Inmate  
21 Dickerson's legs, trying to prevent him from  
22 actually breaking something. So once that  
23 occurred, ne actually grabbed Officer Huggins  
24 around the neck and he was pulling him out the  
25 cell door.

- 1 Q. Who was grabbing Officer Huggins around  
2 the neck?
- 3 A. Inmate Dickerson.
- 4 Q. In what fashion?
- 5 A. He was just basically trying to choke him.  
6 And I was there holding his legs to keep him  
7 from break something with his feet. I kept  
8 pulling him and pulling him. And then finally  
9 Mr. Asher was able to get free. And, uh,  
10 Officer Huggins and myself were actually  
11 making an attempt to restrain Inmate  
12 Dickerson.
- 13 Q. Okay. And this was while he was choking  
14 Officer Huggins?
- 15 A. Yes.
- 16 Q. What happened then?
- 17 A. Once we were -- we were still trying to  
18 get him off of Officer Huggins. Somehow I was  
19 able to wiggle out of his hands and, once  
20 again, I still had his legs to prevent him  
21 from standing and breaking something. But  
22 once he was able to get loose, pretty much he  
23 was now unrestrained.
- 24 Q. And were you able to restrain him?
- 25 A. Yes.

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

3372

1 Q. Did he continue fight with you as you were  
2 trying to restrain him?

3 A. Yes, sir.

4 Q. Was Mr. Dickerson injured during the  
5 scuffle?

6 A. Yes, sir.

7 Q. In what way?

8 A. He had like a busted lip and some  
9 scratches.

10 Q. Was medical called?

11 A. Yes, sir.

12 Q. Did they come and attend to Mr. Dickerson?

13 A. Yes, sir.

14 Q. Was he required to go to the clinic or  
15 anything of that nature?

16 A. No.

17 Q. Were any of your officers injured?

18 A. Yes, sir.

19 Q. Which one?

20 A. Officer Huggins.

21 Q. I believe he ended up having to have  
22 surgery. Is that correct?

23 A. Yes, sir.

24 Q. Now, as a result of this incident, what  
25 security procedures are in place at the jail



1 regarding the defendant or the inmate, William  
2 Dickerson?

3 A. He's currently housed in a cell by  
4 himself. And any time he's moved out of that  
5 cell, he's put in restraining leg irons and  
6 handcuffs. To go to visitation, medical or  
7 anywhere, he is fully restrained.

8 Q. How many inmates do you'all have at the  
9 detention center, roughly?

10 A. Excuse me?

11 Q. How many inmates do you'all have at the  
12 detention center, roughly? I know it varies.

13 A. The entire facility?

14 Q. Yes.

15 A. Roughly, around fifteen hundred.

16 Q. And how many inmates require or have to be  
17 secured?

18 A. Three to five.

19 BRUCE DURANT: Did you hear all  
20 that?

21 THE COURT: Yes, sir.

22 BRUCE DURANT: In that case, I  
23 don't have anything else.

24 THE COURT: Thank you. You may  
25 cross examine.

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

1 MR. CARROLL: May it please the  
2 Court?

3 THE COURT: Yes, sir.

4 CROSS EXAMINATION

5 BY MR. CARROLL:

6 Q. Officer Williams, this was a routine --  
7 the second incident you testified to, the  
8 contraband search, is that one of the routine  
9 things you do?

10 A. Yes, sir.

11 Q. How often do you do those type of  
12 searches?

13 A. It varies based on availability of  
14 staffing.

15 Q. Do you document them when you do them?

16 A. Yes, sir.

17 Q. And every time there's a contraband  
18 search, detention center records are made of  
19 that?

20 A. Yes, sir.

21 Q. Do you have written protocols on how these  
22 searches are to be conducted?

23 A. Sir?

24 Q. Do you have written protocols on how the  
25 searches are to be conducted?

1 A. It's pretty much a set thing where we go  
2 in and make sure that the cell is empty.

3 Q. Is it predetermined how many officers will  
4 be involved?

5 A. Yes, sir.

6 Q. What's the standard?

7 A. Like I say, within Unit 1A you have pretty  
8 much the staff that are present in that unit  
9 that actually do the search.

10 Q. Is Unit 1A equipped with video recording  
11 equipment?

12 A. Yes, sir, we have hand-held cameras as  
13 well as one that's in the ceiling.

14 Q. So right now whatever's taking place in  
15 Unit 1A is being video recorded, at the  
16 moment?

17 A. Yes, sir.

18 Q. Back when this incident occurred, was the  
19 camera there? The one in the ceiling, yes,  
20 sir.

21 A. Yes, sir.

22 Q. Do you know whether that camera was used  
23 to record the search that was going on as you  
24 moved from cell to cell?

25 A. No, sir. That's not -- it's not required

1 for that camera to do that. It's basically  
2 just to observe that unit.

3 Q. Independent of that camera, if you're  
4 going to go into an inmate's cell to do this  
5 type search, would you take a hand-held  
6 camcorder?

7 A. No, sir.

8 Q. You would not?

9 A. We do a video of the cell first.

10 Q. Is that something that you do when you  
11 typically do these kind of searches?

12 A. If we're doing an extraction, we'll take  
13 the camera.

14 Q. Let's say that a cell search turns into an  
15 extraction. Does someone go get the camera?

16 A. Say that again?

17 Q. Say you're doing a cell search and the  
18 inmate doesn't want to come out and you've got  
19 to extract him. Would somebody go get the  
20 camera?

21 A. That would depend on how we handled the  
22 extraction.

23 Q. What scenario would trigger somebody  
24 getting the camera?

25 A. If we had an inmate that was barricading

1 himself in the room, possibly flooding the  
2 cell. If an inmate was possibly considered to  
3 be a little mentally disturbed or something  
4 then we'd use the camera because we'd know  
5 that we were going in for an extraction.

6 Q. Where's the camera stored?

7 A. Behind the desk.

8 Q. So on this occasion there was a camera in  
9 that unit?

10 A. Yes, sir.

11 Q. In fact there were two cameras; correct?

12 A. One in the ceiling and one at the desk.

13 Q. There's no video of this incident?

14 A. To my knowledge, no, sir.

15 Q. So the protocol is to knock on the door,  
16 tell the inmate 'we're going to open the door  
17 and bring you out to do our search.' Is that  
18 how you do it?

19 A. We go to each door and allow them to get  
20 dressed before we enter. And then after they  
21 get dressed allow them to come out.

22 Q. Okay. When you got to the cell that Mr.  
23 Dickerson and Mr. Williams were occupying,  
24 you'all knocked on the door; correct?

25 A. We're standing at the door looking in the

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

3378

1 window. So we were speaking to them.

2 Q. And Mr. Dickerson, was he on the top bunk?

3 A. At this point, I'm not quite sure which  
4 bunk he actually occupied. But by this time  
5 they were getting out of the bunks, both of  
6 them were.

7 Q. So when you'all initially approached that  
8 cell, is it fair to say that Mr. Dickerson and  
9 Mr. Williams were in there in the bed asleep?

10 A. Quite possibly.

11 Q. And you'all instructed them to get down  
12 and get dressed, and they started doing that?

13 A. Not immediately.

14 Q. But they did do it, though; right?

15 A. Eventually, sir.

16 Q. It didn't at that point become an  
17 extraction; did it?

18 A. No.

19 Q. So when the cell door was opened and entry  
20 was made into that cell, isn't it true that  
21 Mr. Dickerson said, "Let me tell you I've got  
22 water in these bags in this thermal shirt?"

23 A. Like I said we seen it. We actually seen  
24 the items. I'm not quite sure if he actually  
25 said it or not. We seen the items.

1 Q. Okay. Do you recall documenting that they  
2 were presented -- thermal shirts with bags  
3 with water in them?

4 A. Say that again.

5 Q. That was presented when you'all entered  
6 the cell?

7 A. We actually seen the items, the bags in  
8 the thermal shirt.

9 Q. Okay. And there was no attempt to hide  
10 them or put them, put them under the bunk or  
11 something like that?

12 A. At that point I'm not sure. But once  
13 again, we saw the items that were in the  
14 thermal shirt, two bags. So once we saw that  
15 we knew there was contraband.

16 Q. Just so we're clear, the plastic bag was  
17 the only contraband that was located in that  
18 cell; correct?

19 A. We actually had some other small items  
20 like bottles, Coke bottles and things of that  
21 nature. But at the time that was the main  
22 thing that we were focusing on. Because, once  
23 again, plastic bags that hold water, that's  
24 not supposed to be in there. And, again, once  
25 the bags were burst it went all over the

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

3380

1 floor. So we were focusing on that item.

2 Q. When that bag burst and water spilled on  
3 the floor was Officer Asher dropped on the  
4 floor?

5 A. No, Mr. Dickerson had the bag at the time.

6 Q. And he was charged that day or as a result  
7 of that with the offense of possession of  
8 contraband?

9 A. Yes, sir.

10 Q. And the plastic bags were the contraband;  
11 correct?

12 A. And he also had these thermals that was  
13 also contraband because of it was used for a  
14 purpose that it was not originally purposed  
15 for.

16 Q. So just that self-made barbells, as you  
17 described it, that was the contraband;  
18 correct?

19 A. It was the plastic bags and the shirt.

20 Q. No other item resulted in any kind of  
21 charge?

22 A. Not to my knowledge.

23 Q. Were you present to hear Officer Asher ask  
24 Mr. Williams if he had to wait on his  
25 girlfriend before he could go out of the cell?



1 A. I don't recall that, sir.

2 Q. Do you recall Mr. Dickerson asking Officer  
3 Asher to not be so disrespectful -- that  
4 reference about him being Mr. Williams'  
5 girlfriend?

6 A. I don't recall that, sir.

7 Q. Do you recall hearing Officer Asher say,  
8 quote, "hit me you punk motherfucker",  
9 talking to Mr. Dickerson?

10 A. I don't recall that.

11 Q. You recall Officer Asher saying anything  
12 in sort of a confrontational, challenging way  
13 to Mr. Dickerson while Mr. Williams was  
14 leaving the cell?

15 A. We were telling them -- we all were  
16 telling them to come on and get out of the  
17 cell. This is only going to take a few  
18 minutes to search the cell.

19 Q. Are you aware of Officer Asher ever making  
20 those sort of challenging, threatening  
21 statements to inmates?

22 BRUCE DURANT: Objection.

23 THE COURT: Sir?

24 BRUCE DURANT: Objection,  
25 relevance.

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.

3382

1 THE COURT: I'll allow it.

2 CROSS EXAMINATION CONTINUED

3 BY MR. CARROLL:

4 Q. So I believe your testimony was that as  
5 Mr. William was leaving the cell that Mr.  
6 Asher was facing the opposite direction,  
7 toward Mr. Dickerson, and for some reason Mr.  
8 Williams turned around and headed back toward  
9 Officer Asher. Is that how you described it?

10 A. He was coming out of the cell, and then he  
11 did a double back into the cell, in the  
12 direction of Officer Asher.

13 Q. Up to that point, Mr. Dickerson had not  
14 done anything that might be considered  
15 problematic, had he?

16 A. First of all, the hesitancy of coming out  
17 of the cell, taking his time getting dressed,  
18 disobeying officers.

19 Q. So very low-threshold on what could become  
20 a problem with inmates in cells?

21 A. Like I said, with that particular  
22 situation, when we have two inmates that are  
23 refusing to come out of a cell, that would  
24 have been a problem. That is a problem.

25 Q. I didn't understand you earlier saying

1 anything about them refusing to come out.

2 A. Well, like I said, when you have inmates  
3 that are rummaging through property, when all  
4 we ask is for them to get dressed and come out  
5 of the cell. We haven't asked them to move  
6 anything, just to come out of the cell.

7 Q. And it was at that point that somehow  
8 Inmate Williams ends up being slammed into the  
9 floor of the cell?

10 A. He was actually pulled away from the  
11 doorway outside the area.

12 Q. And he ended up on the floor?

13 A. Yes, sir, he was between Officers Walter  
14 and James.

15 Q. Can you describe the heights and weights  
16 for the Judge, please? Mr. Williams.

17 A. Which one?

18 Q. Inmate Williams.

19 A. Inmate Williams was approximately about --  
20 maybe about 5'11", maybe. Weight-wise, maybe  
21 165.

22 Q. So he's not a very big fellow at all.

23 A. Not a real big man.

24 Q. And how many officers were on him while he  
25 was on the ground?

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.

3384

1 A. It was Officer Walters initially and then  
2 Officer Asher.

3 Q. And at that point Inmate Dickerson reached  
4 over and tried to pull Officer Asher off;  
5 correct?

6 A. He did grab him around his waist and took  
7 him to the ground.

8 Q. You know that Inmate Williams ended up  
9 being injured during that; correct?

10 A. Yes, sir.

11 Q. In fact, he had to be transported to the  
12 hospital?

13 A. Yes, sir.

14 Q. And he had to be treated for some serious  
15 injuries.

16 A. Yes, sir.

17 Q. And then he came back to the detention  
18 center and had to be checked over by the nurse  
19 there?

20 A. (No verbal response).

21 Q. Do you know about that?

22 A. When he returned, I'm not quite sure if he  
23 was.

24 Q. Do you know if she had some concerns that  
25 one of his eyes wouldn't track as she was

1 checking his eyes?

2 A. I cannot say what the nurse said.

3 Q. Do you know if he was then taken back to a  
4 neurologist?

5 A. I don't know his medical treatment was.

6 Q. What is the penalty range, if you know,  
7 for that infraction within the Detention  
8 Center system? What's the penalty range an  
9 inmate faces for this kind of violation?

10 A. It varies from levels. It starts with  
11 whether they are charged with an "A", "B" or  
12 "C". It can vary from thirty to ten, ten days  
13 in lockup.

14 Q. Now, the incident that occurred that  
15 resulted in the charge of inciting a riot,  
16 isn't it true that Mr. Dickerson's reaction  
17 was simply that 'I don't want to leave and  
18 lose my bed'?

19 A. I'm not sure.

20 Q. There was no violence, was there?

21 A. There would be because that's the reason  
22 when he goes out of his cell that we had to  
23 restrain him.

24 Q. I'm talking about when it began, the  
25 initiation of the offense, when somebody came

1 in to take him out to move him to another  
2 cell.

3 A. The initial time that he was going to be  
4 transported, we weren't there. This was the  
5 date prior.

6 Q. You weren't there? You described some  
7 things as having taken place. You weren't  
8 there for those?

9 A. The very first day was the day we asked  
10 him and Mr. Williams to come out of the cell.  
11 The second day is the day that we actually  
12 went in with the SWAT team and TAC team. We  
13 didn't go in the first day.

14 Q. I'm sorry about not being clear. I'm  
15 talking about the first day when somebody  
16 comes up and says 'okay, Inmate Dickerson,  
17 it's time for you to pack your stuff and  
18 move.' He didn't react violently, correct?

19 A. I can't speak to that sir, I was not there  
20 that day.

21 Q. He didn't react violently anytime during  
22 that, did he?

23 A. What day are you speaking of, sir?

24 Q. Any one that you know about. He didn't  
25 react violently.

1 A. I'm trying to figure out. Are you talking  
2 about the day prior or the day on which we  
3 took him out?

4 Q. I think you described that he walked out,  
5 right?

6 A. Yes, on the second day.

7 Q. And you'all took custody of him?

8 A. Yes, sir, and put him under restraint.

9 Q. And the sort of thing that's been  
10 described as a "standoff" might also be  
11 described as a "sit-in"; right?

12 A. Not to my thinking of it, sir.

13 Q. And you'all decided for tactical reasons  
14 to handle it the way you did with the SWAT  
15 team; the way it's been described to empty it  
16 out, right?

17 A. Yes, sir.

18 Q. It wasn't like there was fighting and  
19 chaos going on in there that required the SWAT  
20 team to enter tactically; right?

21 A. Well, we had a situation such that for a  
22 large group we have to make sure that we allow  
23 ourselves to enter the cell or make sure that  
24 it's going to be safe for all persons  
25 involved. So that is why the SWAT and TAC

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.

3388

1       were called in, to keep things safe.

2       Q.     Sure. That makes a lot of sense.

3       Fortunately, the A inmates just walked out and  
4       you'all resolved the situation. Is that  
5       correct?

6       A.     At that point in time, yes, sir.

7                   MR. CARROLL:       Beg the Court's  
8       indulgence.

9                   THE COURT:       Certainly.

10                   CROSS EXAMINATION CONTINUED

11       BY MR. CARROLL:

12       Q.     Just one other thing. You described  
13       Inmate Dickerson as having an officer in a  
14       choke hold. Is that right?

15       A.     Yes, sir.

16       Q.     You documented your involvement in this  
17       incident; right?

18       A.     Yes, sir.

19       Q.     You didn't mention anything about any  
20       choke hold, or did you?

21       A.     I think I mentioned that he actually  
22       grabbed Officer Huggins.

23       Q.     Did you get a chance to review Officer  
24       Huggins' statement?

25       A.     I'd have to look at it.



1 Q. Do you know that he didn't say he was  
2 choked?

3 A. Again, I'd have to look and see if that's  
4 something he wrote or something that he said  
5 afterwards.

6 Q. And there was a quote, unquote,  
7 "independent investigation" done by another  
8 deputy. Did you know that?

9 A. Yes, sir.

10 Q. Do you know that nobody mentioned any  
11 choking to him?

12 A. I believe Officer Huggins may have.

13 Q. With regard to that contraband, do you  
14 know how Mr. Dickerson was informed that the  
15 plastic bags were contraband?

16 A. Repeat that, please.

17 Q. Do you know how Mr. Dickerson was informed  
18 that the plastic bag was even contraband?

19 A. How he was informed?

20 Q. Yes, ma'am.

21 A. They actually give inmates Rules that  
22 state that any time they use an item for a  
23 purpose for which it is not intended, it is  
24 contraband.

25 Q. So the thermal? That would apply to the

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

3390

1 thermal, I believe, as you've described it?

2 A. And the plastic bags as well.

3 Q. Are you aware of any document? Because  
4 nobody's been able to produce anything that  
5 shows that a plastic bag is contraband.

6 A. In our rules it states that anytime you  
7 use an item for a purpose that it was not  
8 originally intended for, it is considered  
9 contraband.

10 Q. Would blowing your nose with toilet paper  
11 be contraband?

12 A. I didn't hear you, sir.

13 Q. If you blow your nose with toilet paper,  
14 would ---

15 BRUCE DURANT: Argumentative.

16 THE COURT: Slightly. Mildly.  
17 Redirect?

18 BRUCE DURANT: I have nothing.

19 THE COURT: You may come down.  
20 Thank you.

21 THE WITNESS: Thank you, sir.

22 (WITNESS STEPS DOWN)

23 THE COURT: Any additional  
24 witnesses?

25 RUTLEDGE DURANT: One, Your Honor.

1 The State calls Michael Huggins.

2 (WITNESS TAKES STAND)

3 MICHAEL HUGGINS, being duly sworn to  
4 tell the truth, the whole truth and nothing  
5 but the truth, testified, as follows:

6 DIRECT EXAMINATION

7 BY RUTLEDGE DURANT:

8 Q. Good afternoon, Mr. Huggins.

9 A. G'afternoon.

10 Q. Would you please tell the Court where  
11 you're employed?

12 A. Charleston County Detention Center. I'm a  
13 tactical officer there at the jail.

14 Q. What is a tactical officer at the jail?

15 A. We handle security, mental health inmates,  
16 suicidal inmates, inmates who become  
17 destructive and any time there's a tactical  
18 matter. We actually go out when an officer  
19 needs assistance.

20 Q. How long have you been a tactical officer  
21 at the jail?

22 A. A year and four months.

23 Q. So you were a tactical officer at the jail  
24 on December the 7<sup>th</sup>, 2008?

25 A. Yes, sir.

1 Q. Do you recall an incident on that day  
2 involving the Defendant, William Dickerson?

3 A. Yes, sir.

4 Q. Where was he being housed inside the jail  
5 at that time?

6 A. Cell 1236A.

7 Q. And what is Cellblock A at the jail?

8 A. It's a unit that houses the mental health  
9 inmates, suicidal inmates, inmates who become  
10 destructive.

11 Q. You said he was in 1236A?

12 A. Correct.

13 Q. Was he with anybody, any roommate?

14 A. Inmate John Williams.

15 Q. Were you called to his cell that day?

16 A. No, not for that day. I was actually  
17 filling in at the desk for a guy.

18 Q. What was going on to precipitate an  
19 incident with Mr. Dickerson?

20 A. Ms. Williams and Officer Asher and Officer  
21 Walton were conducting a cell search  
22 throughout the entire unit while I was popping  
23 the doors.

24 Q. You were popping the doors -- opening the  
25 cells?

- 1 A. Yes, sir.
- 2 Q. And the deputies are inside Cell Block A?
- 3 A. Yes, sir, up at the front of the unit.
- 4 Q. So what happened?
- 5 A. I was at the desk observing Officers
- 6 Williams, Asher and Walker instructing Inmate
- 7 Williams and Inmate Dickerson to exit. That's
- 8 when I saw Walker and Inmate Williams engage
- 9 in like a little bit of a struggle. Walker
- 10 threw Inmate Williams to the ground. Asher
- 11 out to assist with Williams and that's when
- 12 Inmate Dickerson came up behind Officer Asher,
- 13 picked him up off the ground and placed -- and
- 14 slammed him on the ground. I started to go
- 15 there to engage.
- 16 Q. And did you engage?
- 17 A. Yes, sir, I engaged in taking Inmate
- 18 Williams to the ground -- Inmate Dickerson to
- 19 the ground, sorry, and he ended up on top of
- 20 me.
- 21 Q. And what happened at that point? Who was
- 22 involved with William Dickerson at this point?
- 23 A. Officer Williams and I were.
- 24 Q. And so what happened?
- 25 A. He was on top of me with his arms around

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.

3394

1 my neck trying to choke me. Ms. Williams was  
2 grabbing his feet, and she was able to assist  
3 me enough where I could get a little bit of  
4 wiggle room to get from underneath him. That  
5 when we put the chains on him.

6 Q. How was Inmate Dickerson trying to choke  
7 you?

8 A. He had his arm wrapped around my neck here  
9 -- one arm, actually wrapped around this way  
10 and he was squeezing.

11 Q. And how did that feel to you?

12 A. At the time he had taken a little bit of  
13 my air away until I was successful in getting  
14 from underneath him to where he could not  
15 place any more pressure on me.

16 Q. Were you able to deal with him?

17 A. Yes.

18 Q. Did you sustain any injury as a result of  
19 your scuffle with William Dickerson?

20 A. My right knee popped out of place and I  
21 had to have surgery on it.

22 Q. Thank you, sir.

23 THE COURT: Cross examine.

24 CROSS EXAMINATION

25 BY MR. CARROLL:

1 Q. Officer Huggins, do you recall preparing a  
2 statement regarding this incident?

3 A. Yes, sir.

4 Q. The preparation of that statement would  
5 have been, number one, and tell me if I am  
6 wrong, to document the use of force there in  
7 that cell that day?

8 A. Yes, sir.

9 Q. And, number two, to give an accurate  
10 picture of exactly what happened.

11 A. Yes, sir.

12 Q. And you know that often investigations  
13 will go beyond that day and that time,  
14 correct?

15 A. Yes, sir.

16 Q. And there will be other people involved in  
17 looking at this, correct?

18 A. Yes.

19 Q. And, in fact, there was a deputy that went  
20 beyond this investigation; correct?

21 A. Yes, sir.

22 Q. And your statement was provided to that  
23 deputy, right?

24 A. Yes, sir.

25 Q. And nowhere in that statement do you

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

3396

1 mention anything about being choked, do you?

2 A. No, sir, I do not.

3 Q. That would have been an important detail  
4 in investigating this; wouldn't it?

5 A. Yes, sir. I would think the CCOH would  
6 know about it.

7 Q. CCOH, what is that?

8 A. That's where we get checked out. There  
9 and the local hospital, we get checked out  
10 there before we can return to work.

11 Q. You wrote this statement, though; right?

12 A. Yes, sir.

13 Q. And you didn't mention anything at all  
14 about being choked, did you?

15 A. No, sir.

16 MR. CARROLL: Nothing else, Your  
17 Honor.

18 THE COURT: Redirect, Mr. Durant?

19 REDIRECT EXAMINATION

20 BY RUTLEDGE DURANT:

21 Q. In your statement you didn't mention that  
22 you hurt your knee either, did you?

23 A. No, sir.

24 Q. And what kind of long-term effect did you  
25 have with your knee?



1 A. My knee came out of joint and I had to  
2 have surgery on it.

3 Q. Were you able to return to work with your  
4 knee?

5 A. No, sir, I'm still on light duty.

6 Q. Thank you, sir.

7 THE COURT: Any additional  
8 questions, Mr. Carroll?

9 MR. CARROLL: Beg the Court's  
10 indulgence.

11 THE COURT: Certainly.

12 MR. CARROLL: No, sir.

13 THE COURT: Thank you, sir. You may  
14 come down.

15 (WITNESS STEPS DOWN)

16 THE COURT: Anything else?

17 BRUCE DURANT: That would be it,  
18 Your Honor.

19 THE COURT: Let me ask you a  
20 question. What's the purpose of this  
21 testimony, from the State's perspective, in  
22 this phase? I'm just trying to ---

23 BRUCE DURANT: Be we anticipate  
24 that they will raise adjustment to  
25 incarceration, relating to their mitigating

1 issues.

2 THE COURT: All right. My concern  
3 is this. This thing is just -- it shows  
4 everybody what goes on in prisons, and it's not  
5 a very pleasant sight. It's not a pretty  
6 sight. But there's so many contradictions.  
7 There's so many things that are -- for  
8 instance, they say walk out and he's walking  
9 out. That's a perception thing. Was he trying  
10 to sneak out or was he not? I don't know. It  
11 just simply is not clear enough to me to serve  
12 the purpose.

13 And what concerns me, to be perfectly  
14 honest with you, is the jury ends up trying  
15 something that really and truly doesn't have  
16 anything to do with it. That's so -- with  
17 everything that I've heard and what I think  
18 we're going to hear in this case, that's not a  
19 very major player insofar as what this jury's  
20 going to have to determine.

21 We know that there are issues that  
22 automatically - they've already started playing  
23 those cards. It's just human nature cards.  
24 What's going to happen to the other people?

25 I don't think this has that great of

1 an effect.

2 BRUCE DURANT: And I understand  
3 that, Judge.

4 THE COURT: And my concern is that  
5 we start trying -- we're trying another issue  
6 here. We're trying how are they treated at  
7 Leeds. We don't need to do that. It gets the  
8 jury off on something.

9 BRUCE DURANT: I agree whole-  
10 heartedly. And, like I said, the only reason  
11 I even thought about this is because they're --  
12 I've been given every reason to believe that  
13 they're going to make that an issue in their  
14 ---

15 THE COURT: And they may. I'll just  
16 have to hear that. I assume you have -- and I  
17 haven't looked at it, but I assume you had the  
18 opportunity of reply, if that's necessary? But  
19 the bottom line is I just don't think this is  
20 going to that issue that significantly.

21 In order to raise it, I'm not sure how  
22 he raises it if he's not there testifying.  
23 That's going to be an interesting one too,  
24 except through some expert witness; then you  
25 can certainly ask the expert whether or not -

1     these situations.

2                   BRUCE DURANT:         And that would be  
3     why I would anticipate them raising it in that  
4     -- because we have an incarceration history  
5     with the Department of Corrections, as well,  
6     and I'm sure that their expert is going to  
7     testify that he adjusted well to prison.

8                   THE COURT:         I'll wait to see how  
9     that unfolds. But right now I just don't -- I  
10    think -- the concern I have is what I've  
11    expressed. I just don't think it's strong  
12    enough, the first incident, for sure. The  
13    second one, there's no question that the action  
14    of taking down the officer is an act of  
15    violence, in my opinion. No question about  
16    that. What precipitated -- whether there was  
17    contraband or not contraband, that's going to  
18    be end up being something the jury's going to  
19    be saying, as I was saying, 'come on, people.'

20                  BRUCE DURANT:         I understand.

21                  THE COURT:         But taking down the  
22    officer is a different story.

23                  BRUCE DURANT:         It shows he's a  
24    danger.

25                  THE COURT:         No question about that.

1 And that's the one I may consider. I'll be  
2 happy to hear you all on that issue more  
3 directly.

4 I don't think the incident about  
5 inciting the riot, I would not allow that.  
6 There's too many vagaries on that.

7 How it's presented on the contraband,  
8 I really think you'all ought to stay -- I don't  
9 think the jury ought to hear it. The incident  
10 ought to be that there was an altercation that  
11 occurred, not between Mr. Dickerson, but  
12 between another inmate. And he, then, took  
13 action. That testimony ---

14 BRUCE DURANT: I would have no  
15 problem tailoring it that way.

16 THE COURT: That part is something  
17 that may be relevant. Okay? I'll be happy to  
18 hear you all on that. But fine tuning it to  
19 that, I probably would allow. The rest of it  
20 -- for instance, saying that he's not going to  
21 be a good prisoner because he bring contraband  
22 in, I don't think that ---

23 BRUCE DURANT: I agree with the  
24 contraband part is irrelevant.

25 THE COURT: Okay.

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

3402

1 BRUCE DURANT: That wasn't the  
2 point.

3 THE COURT: And I didn't think it  
4 was. But, clearly, the action taken which he  
5 doesn't -- he may feel strongly for that, but  
6 he's not in a situation where he can do that,  
7 in my opinion. And that's a judgment call that  
8 may be probative and certainly an issue that  
9 the jury can hear.

10 BRUCE DURANT: Okay. I can live  
11 with that.

12 THE COURT: Thank you. And I'll be  
13 happy to hear you all fully on that. But  
14 that's my rationale for confining it to that.  
15 I think that one's -- we can say he didn't do  
16 to the degree it was. But why are they there  
17 in the first place? That's the concern that I  
18 have.

19 MR. BLOOM: You don't want to hear  
20 from us now on that?

21 THE COURT: No.

22 MR. BLOOM: At the appropriate  
23 juncture, we ----

24 THE COURT: I will allow the  
25 testimony of that incident, but I'll hear you

1 before we do that and before we present that  
2 witness we'll give you a full opportunity. And  
3 then I'll make a decision after hearing fully  
4 from you on that issue. Okay?

5 BRUCE DURANT: All right.

6 MR. BLOOM: Thank you.

7 THE COURT: You bet.

8 BRUCE DURANT: Thank you, Your  
9 Honor.

10 THE COURT: You bet.

11 SOLICITOR WILSON: I have three  
12 packets. Do you want them marked or what?

13 THE COURT: Let's mark them  
14 collectively. Are there three packets of  
15 notes?

16 SOLICITOR WILSON: In each packet  
17 there's a different set. In the first one  
18 that's ---

19 THE COURT: Why don't we mark them  
20 separately then?

21 SOLICITOR WILSON: --- entitled  
22 Dickerson Jail Tape, what I instructed was the  
23 subpoena, the disk and the notes be put in  
24 here. I have not examined what's in here, so  
25 I'm not positive. That's the first one.

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.

3404

1 THE COURT: Hold on a second. Let's  
2 make that one -- we'll identify that as Court's  
3 Exhibit 23.

4 COURT REPORTER: Number 24.

5 (SO ENTERED AS COURT'S EXHIBIT 24)

6 THE COURT: Tapes, subpoena and  
7 notes.

8 SOLICITOR WILSON: Right. The  
9 second, the top line says "William Dickerson,  
10 Isolated Calls." Same thing. I am not sure if  
11 there were any notes made of these. It's my  
12 understanding that isolated calls meant that we  
13 requested only calls for three certain numbers.  
14 I do not believe that there are any attorney  
15 calls on this, but I don't know.

16 THE COURT: That envelope has  
17 "William Dickerson, Isolated Calls."

18 COURT REPORTER: Court's Exhibit 25.

19 (SO ENTERED AS COURT'S EXHIBIT 25)

20 SOLICITOR WILSON: The third one is  
21 entitled, "William Dickerson, Jail Tapes."  
22 This is the one that I believe was at Solicitor  
23 Hosington's request a long time ago. I do not  
24 believe that there are any questionable calls  
25 but I am handing it over anyway. And, again,



1 it says there should be notes as well as the  
2 subpoena.

3 THE COURT: And it's my  
4 understanding, obviously, from my reaction that  
5 it's a tape, the subpoena. They're entitled to  
6 those. The notes I will review to see whether  
7 or not there's something in there that would --  
8 I guess you're concerned about some work  
9 product that may be there.

10 SOLICITOR WILSON: Right. And  
11 then there's one other sheet of paper which we  
12 just got today from the jail which is the log  
13 that shows when he were provided the disks in  
14 question, which was April 8<sup>th</sup> of '09.

15 THE COURT: That'd be Court's  
16 Exhibit 26.

17 (SO ENTERED AS COURT'S EXHIBIT 26)

18 THE COURT: I'm going to look  
19 through this.

20 SOLICITOR WILSON: I don't think it  
21 would take you but a few minutes.

22 THE COURT: Because I'm going to let  
23 them have this. We're going to have to do an  
24 inventory together of what it is, because I'm  
25 going to turn these over to them after they've

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.

3406

1 had a chance to look through them. But we've  
2 got to have a record of what it is I'm turning  
3 over to them. Let me just go through these  
4 quickly. We'll be at-ease. Sorry. I'll do it  
5 as quick as I can.

6 (BRIEF RECESS)

7 (DEFENDANT PRESENT)

8 THE COURT: What I've done -- first  
9 of all, I don't find anything in there that  
10 would suggest any kind of work product.  
11 All it is -- and I didn't read through all the  
12 summaries But there appears to be just a  
13 summary of a call. So I don't consider that  
14 work product. It's what they heard and what  
15 they said they heard, and they ought to have  
16 that.

17 What I have done is I have numbered  
18 the pages. I opened the envelope and whatever  
19 order they were in, that's what I started  
20 numbering. I don't know that they have any  
21 significance. But what I'm going to do is hand  
22 them to you. I'm going to put on the record  
23 what's contained in each envelope. You can  
24 copy what you want and retain what you want.  
25 We just need to know what it is that you

1 retain.

2 MR. BLOOM: Yes, sir.

3 THE COURT: Court's Exhibit 24, the  
4 first one I have is an envelope containing an  
5 envelope. And on that envelope it says "For  
6 Jeff Osborne dated February 10<sup>th</sup>, 2009."

7 Within that envelope there are two  
8 CDs. One CD says "3/11/06 - 2/9/09" for these  
9 numbers: 224-6652 and 303-2521. There's  
10 another CD with a date on it of 12/1/08 -  
11 2/9/09 and telephone number -- and I assume  
12 that's what that is -- is 323-2416. There are  
13 nine pages. Those nine pages will be numbered  
14 -- I finally realized that I was numbering  
15 several one through nines. So there's one that  
16 has a number of pages -- it's 56 pages. I  
17 didn't go back and write the Court's Exhibit in  
18 the front. But for the others, for this one  
19 it's 24-RMD1 through 24-RMD9. You'll be able  
20 to designate those pages.

21 Court's Exhibit 25 is an envelope  
22 containing six pages numbered 25-RMD1 through  
23 25-RMD6, and an envelope containing a CD with  
24 the date 3/11/06 to 6/15/06.

25 Court's Exhibit 23 is an envelope

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.

3408

1 containing fifty-six pages. And they're just  
2 numbered RMD-1 through RMD-56-- RMD 56. Not  
3 that number twenty-three -- we'll just note all  
4 the others have the Court's exhibit number.  
5 The one that doesn't have the Court's exhibit  
6 number is for 23. There are three CDs in this  
7 one:

8 One is 7/1/07 through 4/6/09, and  
9 there's a copy of that I've attached. They're  
10 in the same envelope.

11 And 6/16/06 - 7/30/07 and that's in a  
12 separate envelope containing a CD, and 56 pages  
13 numbered RMD 1 through RMD 56.

14 Court's Exhibit 27 is an envelope, and  
15 I didn't have even open that one. It  
16 apparently contains a CD, I think in the  
17 envelope. This was found on my sofa. I don't  
18 know -- it's -- the CD says "William Dickerson  
19 8/24/06 - 9/12/06." And I'm placing that CD  
20 back in the envelope. Court's Exhibit 27 has  
21 four pages that I've numbered 27-RMD1 through  
22 27-RMD4

23 And we're going to hand those to you.  
24 We made a copy of Court's Exhibit 26. It's a  
25 one-page document, and I'm going to retain the

1 original, if that's agreeable, and we'll give  
2 each of you a copy.

3 I'm going to hand those original  
4 Court's Exhibits, that's 23, 24, 25 and 27, to  
5 Mr. Bloom, and there is a copy of 26 attached  
6 to that as well. You may copy what you need  
7 and we'll just return them when you're ready.

8 MR. BLOOM: Thank you. Do you want  
9 me to approach the Bench, Your Honor?

10 THE COURT: You may, (tendering).

11 MR. BLOOM: Thank you.

12 THE COURT: Solicitor, I'll give you  
13 a copy of 26. And as I understand, Solicitor,  
14 you don't want a copy of these back, returned?

15 SOLICITOR WILSON: I want them to  
16 be in the record.

17 THE COURT: They are in the record.  
18 And we've put there what it is. They're  
19 numbered, and now we have a way of verifying  
20 what's returned. I would appreciate it if you  
21 would return the originals.

22 MR. BLOOM: Yes, sir. I will do  
23 that. I will keep these in order.

24 THE COURT: Okay. Thank you.  
25 Anything else?

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.

3410

1 SOLICITOR WILSON: No, sir.

2 THE COURT: Mr. Bloom, anything  
3 else?

4 MR. BLOOM: Judge, just for our  
5 purposes today, I think it's incumbent on me to  
6 renew those pretrial Motions you heard that  
7 went to the sentencing issues. You denied them  
8 but I want to renew them at this time, I don't  
9 want to be perceived as having waived them if I  
10 don't preserve them now.

11 THE COURT: Your Motions are  
12 preserved. There's basis therefore is  
13 contained in the record concerning --  
14 obviously, number one, would be the death  
15 penalty itself.

16 MR. BLOOM: Yes, sir. Specifically  
17 at the pretrial hearing there was a Motion to  
18 dismiss the aggravating circumstance of  
19 criminal sexual conduct with a minor -- and I  
20 would not repeat them, but I would renew that  
21 Motion.

22 THE COURT: It wasn't with a minor,  
23 though. It is criminal sexual conduct in the  
24 first degree.

25 MR. BLOOM: I'm sorry, I did say

1 minor. I meant criminal sexual conduct.

2 Excuse me. It's been a long week.

3 THE COURT: I understand.

4 MR. BLOOM: The other one that would  
5 apply is the Motion to dismiss the death  
6 penalty phase based on proportionality.

7 THE COURT: Correct.

8 MR. BLOOM: I will not redo our  
9 arguments. They're contained in the record.

10 THE COURT: All right.

11 MR. BLOOM: Third, our Motion as far  
12 as the death penalty is contained in the  
13 record, and we would renew those, in  
14 particular.

15 THE COURT: They are renewed and the  
16 rulings previously given stand.

17 MR. BLOOM: Thank you, Your Honor.  
18 Lastly, in that regard, we also made a Motion  
19 at the pretrial hearing we argued for the  
20 disclosure requirement of the State to continue  
21 to provide any information in the case,  
22 particularly inconsistencies by witness or  
23 other information which so far I've had no  
24 reason to believe they had none.

25 THE COURT: Nor I. In fact, what

1 we've just done is a further indication of the  
2 State's compliance with that request.

3 MR. BLOOM: Yes, sir. And it's my  
4 understanding that while we've been in trial  
5 the U. S. Supreme Court issued a case recently  
6 -- and I apologize, I don't have the name of  
7 it, but I will have it by Monday -- which  
8 reaffirmed the prosecution's duty to disclose  
9 under *Brady* and its progeny information  
10 relating to mitigating circumstances that may  
11 have come into the State's possession through  
12 witness interviews or documents or otherwise.

13 They have obviously given us a lot of  
14 discovery that does relate to sentencing, but I  
15 just wanted to renew and reiterate that Motion  
16 on the record. Thank you.

17 THE COURT: That's fine. Certainly  
18 let it be known that to me it's not foreign.  
19 It's very close, maybe even a first cousin, to  
20 interrogatories in a civil trial which continue  
21 through the trial. There's an obligation to  
22 produce any material which is germane to those  
23 and obviously, the Solicitor is doing that, I'm  
24 sure.

25 SOLICITOR WILSON: The only thing I



1 can think of that wasn't elicited in detail is  
2 the fact that on the day of the abduction when  
3 all this started, that the defendant appeared  
4 to be on something.

5 THE COURT: We've had an abundance  
6 of testimony describing him as being --  
7 somebody said "tripping." Somebody said  
8 "flipping out", just all sorts of descriptions.

9 SOLICITOR WILSON: I think the  
10 gist of it was that we didn't go into detail  
11 with that. But that's the only thing I can  
12 think of. In addition, we have photographs of  
13 the victim -- the family, they're welcome to  
14 come and view. I don't have copies of them.

15 THE COURT: Well, whatever you plan  
16 to produce and introduce, I would appreciate it  
17 if you would show it to them before we bring  
18 that in the testimony. Okay?

19 SOLICITOR WILSON: Yes, sir.

20 THE COURT: Thank you.

21 MR. BLOOM: Judge, lastly, if -- I'd  
22 like to just briefly revisit, because I want to  
23 understand the parameters that you will  
24 consider, regarding the Motion hearing today  
25 for those alleged altercations at the jail. I

1 understand you're going to rule a little bit  
2 more completely as that issue arises. It's my  
3 understanding that the Court said you may allow  
4 the State to go into the altercation between  
5 the detention officer and another inmate and  
6 the defendant became involved and there was  
7 some conflict.

8 THE COURT: That's correct.

9 MR. BLOOM: Okay, I just wanted to  
10 be sure I understand.

11 THE COURT: Restrict it to that.  
12 Because what led to -- to the extent that they  
13 need to create why they're there, obviously  
14 they went there to do a search and they were  
15 removing this person. There was an  
16 altercation, and then what action was taken by  
17 Mr. Dickerson after that altercation. That  
18 part, I will, but none of the other things that  
19 we talked about. Okay?

20 MR. BLOOM: Yes, sir.

21 THE COURT: Thank you. I will rule  
22 on that at the appropriate time after fully  
23 airing it.

24 BRUCE DURANT: Thank you.

25 THE COURT: Thank you.

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

3415

3607

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(COURT IN RECESS)

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

3416

1 MAY 4, 2009 9:30 A.M.

2

3 (DEFENDANT PRESENT)

4 THE COURT: Before we start, we've  
5 had some officers that we need to swear. As I  
6 understand, you have not previously been sworn,  
7 and there is a possibility that some of you or  
8 all of you may be dealing with escorting the  
9 jury and bringing them in in the morning.

10 The oath that we are about to  
11 administer applies to you and I want to make  
12 sure that each of you will comply with that and  
13 certainly not let anyone approach these jurors  
14 while they are there or come in the vicinity of  
15 the jurors. I'm confident each one of you will  
16 allow that.

17 (COURT PERSONNEL SWORN)

18 THE COURT: Thank you very much. At  
19 some point, and probably toward the end of the  
20 week, if we could have a list of the persons  
21 who have just been involved with this process.  
22 We're going to incorporate that into the  
23 record. Thank you all. I appreciate it.

24 (SO ENTERED AS COURT'S EXHIBIT 29)

25 THE COURT: Do you have any

1 objection to their badges?

2 MR. BLOOM: No, sir. Anything from  
3 the State before we proceed?

4 SOLICITOR WILSON: No, sir.

5 THE COURT: Anything from the  
6 Defendant before we proceed?

7 MR. BLOOM: No, sir.

8 THE COURT: Thank you very much and  
9 let the record reflect Mr. Dickerson is  
10 present. Good morning. Let's bring in our  
11 jury, please.

12 (JURY IN @ 9:40 A.M.)

13 THE COURT: Please be seated. Thank  
14 you, Ladies and Gentlemen. Good morning to  
15 you. I hope you had a good weekend. We are  
16 now ready to begin a trial that we talked about  
17 when we were in the process of selecting you.

18 As you recall, the first phase now has  
19 been completed and now we started the second  
20 trial. And the second trial will proceed in  
21 the same fashion, in that we'll have the same  
22 four parts that you observed previously.

23 In just a moment, I'm going to make my  
24 opening remarks to you and then the attorneys  
25 will have their opportunity on behalf of their

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.

3418

1 clients to give you an opening statement, and  
2 then we'll proceed into the evidentiary  
3 portion.

4 Please remember that you were  
5 obviously selected to be a fair and impartial  
6 judge in both. As we start this phase I would  
7 remind you of the commitment that you have made  
8 throughout, and that is that you have an open  
9 mind. You brought with you that open mind,  
10 your common sense, your sense of logic and  
11 reason. And at the appropriate time you will  
12 be instructed to use that again. But until you  
13 are, please do whatever is necessary to  
14 maintain that position, that is an open mind as  
15 to the sentencing.

16 First, before I give you my opening  
17 statement, let me ask do each of you solemnly  
18 swear or affirm that at all times since we were  
19 together on Thursday, you have followed the  
20 Court's instruction in every respect, and  
21 specifically you have not talked with anyone,  
22 you have not permitted anyone to talk with you,  
23 you have not talked among yourselves, you have  
24 not read any newspaper accounts or watched any  
25 news programs concerning this trial. If you

1 can make that commitment, say "I do."

2 (UNANIMOUS AFFIRMATIVE RESPONSE FROM JURORS)

3 THE COURT: Any member of the panel  
4 that could not make that commitment? (No  
5 response).

6 Thank you very much. Ladies and  
7 Gentlemen, as you know, the Defendant William  
8 Dickerson was convicted on April 30, 2009 of  
9 the offense of murder, The offense of criminal  
10 sexual conduct first degree and the offense of  
11 kidnaping. It therefore becomes necessary for  
12 us to hold this additional proceeding which  
13 will determine the punishment that the Court is  
14 to impose upon this defendant.

15 Section 16-3-20 of the South Carolina  
16 Code of Laws, as amended, provides, in part, as  
17 follows: "A person who is convicted of murder  
18 must be punished by death or by imprisonment  
19 for life."

20 That Section as further amended also  
21 provides in part, "That upon conviction of a  
22 defendant of murder, the Court shall conduct a  
23 separate sentencing proceeding to determine  
24 whether the defendant, William Dickerson,  
25 should be sentenced to death or life

1 imprisonment without the possibility of  
2 parole."

3           So our purpose in conducting the  
4 proceeding in which we are now engaged is to  
5 determine whether the defendant, Mr. Dickerson,  
6 should be sentenced by the Court to death or to  
7 life imprisonment. With respect to your  
8 particular role in this proceeding, you will be  
9 asked to recommend to the Court whether the  
10 sentence for the defendant is death or life  
11 imprisonment without the possibility of parole.

12           During this sentencing proceeding the  
13 State and the defendant, if he chooses, will  
14 have the opportunity to introduce additional  
15 evidence concerning extenuating circumstances  
16 or mitigating circumstances or aggravating  
17 circumstances, and both sides will have an  
18 opportunity to present arguments for and  
19 against the death penalty or life imprisonment  
20 without the possibility of parole.

21           Whether you should recommend a  
22 sentence of life imprisonment or a sentence of  
23 death, that is the only issue. That's the sole  
24 issue to be involved in this proceeding. At  
25 the conclusion of the last argument given to



1     you -- as you recall, the attorneys have an  
2     opportunity to speak to you just before you  
3     hear the charge. At the conclusion of that  
4     argument, I'll give you additional instruc-  
5     tions. And then you will retire to determine  
6     the appropriate sentence in this case.

7             Please remember that until you have  
8     received this case again, I reiterate, you must  
9     maintain that open mind. You must not  
10    predetermine any issue, and you must at all  
11    times listen to all of the evidence and  
12    certainly give your attention the attorneys'  
13    remarks as they will be extremely important  
14    when you do begin the process of deciding this  
15    case.

16            Thank you for your attention to my  
17    remarks. Please now give your attention to  
18    the attorneys as they give their opening  
19    statements.

20            Solicitor?

21            BRUCE DURANT:       Thank you.

22            THE COURT:       Excuse me. Any excep-  
23    tions or additions from the State concerning  
24    the Court's remarks?

25            SOLICITOR WILSON:    No, sir.

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

3422

1 THE COURT: Any from the defendant?

2 MR. CARROLL: None, Your Honor.

3 THE COURT: Excuse me for  
4 interrupting.

5 BRUCE DURANT: Thank you, Your  
6 Honor. Good morning, Ladies and Gentlemen.

7 As Judge Dennis just told you, we have  
8 now reached the point in this trial where it is  
9 incumbent upon you, as jurors, to select an  
10 appropriate sentence.

11 But before you can even get to the  
12 point where you consider the death penalty, you  
13 first have to find beyond any reasonable doubt  
14 the existence of at least one aggravating  
15 circumstance in this case. That's not going to  
16 be difficult, because by your verdict last  
17 Thursday you have already found the existence  
18 of at least two aggravating circumstances  
19 beyond a reasonable doubt; that is, that the  
20 murder of Gerard Roper occurred during the  
21 course of a kidnaping and criminal sexual  
22 conduct.

23 There is, however, a third aggravating  
24 circumstance upon which the State relied in  
25 this case and which, quite frankly, is very

1 appropriate. And that is that the murder of  
2 Gerard Roper occurred during the commission of  
3 physical torture. The judge will charge you on  
4 the law and will define what that term means.  
5 A short definition is serious physical abuse  
6 before death, as you will see happened to  
7 Gerard Roper in this case. On that issue, you  
8 will hear once again from the Medical Examiner,  
9 Dr. Cynthia Schandl.

10 At this stage of the proceeding you  
11 will hear evidence that you didn't get to hear  
12 in the first part of this trial. You see, in  
13 the first part of the trial you were only  
14 concerned with whether or not William Dickerson  
15 was guilty of the crimes charged, and the  
16 evidence that you heard in that regard was  
17 limited to that issue. By your verdict last  
18 Thursday you have resolved that issue.

19 You will now hear evidence in  
20 aggravation and perhaps evidence in mitigation  
21 which bear upon the circumstances of this  
22 particular crime and the characteristics of  
23 that Defendant.

24 To assist you in arriving at the  
25 appropriate punishment in this case, whether

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.

3424

1     that be life imprisonment without the  
2     possibility of parole or whether it be death,  
3     during the State's presentation you will hear  
4     what's called witness impact testimony. That  
5     is nothing more than testimony from the family  
6     of Gerard Roper as to how his murder has  
7     affected them. It may be emotional testimony,  
8     it may be difficult for you to hear but it is  
9     important that you hear how this Defendant's  
10    actions and what he did has affected Gerard  
11    Roper's family.

12                You'll learn something about his  
13    criminal history, starting from the time he was  
14    a juvenile and moving on through his present  
15    crimes. We will detail some of his prior  
16    crimes. He has a history of guns, violence,  
17    lawlessness and complete and utter callousness  
18    toward his fellow man.

19                After the State presents its case in  
20    aggravation, the defense, if it decides to, if  
21    it chooses to, will have the opportunity to  
22    present evidence in mitigation. Mitigating  
23    evidence is simply evidence which tends to  
24    reduce the defendant's moral culpability of the  
25    crimes that he committed. That would be things

1 from his background, his drug use, his mental  
2 state at the time the crime occurred and  
3 others.

4 Should the defense decide to present  
5 that type of evidence we would ask you to ask  
6 yourselves this question: If any of it reduce  
7 his moral culpability for what he did to Gerard  
8 Roper on March the 7<sup>th</sup> and March the 8<sup>th</sup>, 2006?

9 Do not forget what he did to Gerard  
10 Roper.

11 Do not forget how he made Gerard Roper  
12 suffer.

13 Once you've heard all the evidence in  
14 aggravation and mitigation, the judge charges  
15 you once again, it is up to you again to choose  
16 the appropriate sentence. We know it's going  
17 to be easy decision for you to make, but we  
18 know that each and every one of you during jury  
19 qualification, under oath, said that you can  
20 make that decision. Each and every one of you  
21 will have to arrive at your own individual  
22 decision in this case, yet your collection  
23 decision will speak for this entire community.  
24 What you will be telling the community is that  
25 the citizens of Charleston County ----

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.

3426

1 MR. BLOOM: Your Honor, I would  
2 object about any argument about sending --  
3 remarks about the community.

4 THE COURT: Sustained at this point.

5 BRUCE DURANT: We represent that  
6 at the conclusion of this case you will return  
7 a verdict of the death penalty. It is  
8 something that William Dickerson deserves.

9 THE COURT: Mr. Bloom?

10 MR. BLOOM: May it please the Court?

11 THE COURT: Yes, sir.

12 MR. BLOOM: Now we have an  
13 opportunity to begin to tell you the story of  
14 William Dickerson. It didn't start and just  
15 drop out of the sky on March 7<sup>th</sup>, 2006. It  
16 started a long, long time before that. And it  
17 should be no surprise that tragically we are  
18 now all gathered here with you have to make a  
19 decision between the ultimate punishment and  
20 life without parole.

21 William Dickerson, Jr.'s story starts  
22 really before he was born. His father was  
23 William Dickerson, Sr. was a violent man and  
24 his mother, Sandra Fokes, was a victim of that  
25 violence. In fact, William Dickerson's father,

1 William Sr. ended up in the Department of  
2 Corrections serving a life sentence for murder,  
3 where he died.

4 William Sr. perpetrated that violence  
5 on Sandra while she was pregnant and it  
6 continued. Later, Sandra herself,  
7 unfortunately, re-perpetrated the violence she  
8 sustained. He was a product of that  
9 environment. He was often told "you will grow  
10 up to be just like your father", even when he  
11 was small, a child. "You're no good, you're no  
12 good like your father." We all know that if  
13 you kick a dog enough, at some point the dog is  
14 going to bite back. It's sad, but we know that  
15 from our own common sense and heart.

16 Some of you may be thinking, 'well,  
17 you know, I had a broken home. I had it tough.  
18 I grew up in a difficult home.' I don't know  
19 that, I don't know if that's true or not  
20 because we didn't try to invade your privacy  
21 beyond the questions we asked you on the  
22 witness stand. But I assure you no one in this  
23 court room, no one, experienced what he did  
24 growing up in that household.

25 When he gets to be about ten or

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.

3428

1 eleven, he attempts suicide. Ten or eleven.  
2 Some of you are parents, some of you may not  
3 be. I remember myself and my own children in-  
4 the fourth or fifth grade and for a child that  
5 age to threaten and attempt suicide, to be  
6 hospitalized in the State psychiatric hospital,  
7 something in that home has to be going on  
8 that's beyond the pale, that's so horrible  
9 beyond our day to day experience that it shaped  
10 him for the rest of his life. The tragic thing  
11 is that doctor after doctor after social worker  
12 after specialist said, 'You know what? The  
13 best thing for this young man is not to send  
14 him back home.' 'Don't send him back home.'  
15 But they did, they did time after time.

16 You know, my heart goes out to Sandra  
17 Fokes. You saw her on the witness stand, how  
18 she broke down when she testified. But that's  
19 no way to know a person in five minutes of  
20 testimony. When she became a victim, she  
21 learned those habits and she unfortunately,  
22 tragically, perpetrated that and allowed a  
23 household to perpetrate that on William.

24 So it's no surprise when William goes  
25 through some of the placed that tried to help



1 him -- and he tried, he tried and he thrived.  
2 But in his teen years when he'd get sent back -  
3 - where? To the same place, to the same  
4 neighborhood where there's guns and drugs,  
5 alcohol and violence, to the same household.  
6 He learned to live that culture and adopt that  
7 culture.

8 I think you saw some of the witnesses  
9 who testified, who were his friends but who  
10 testified in this case, that was the  
11 neighborhood and culture unfortunately that  
12 William adopted, that was provided, that's all  
13 that he knew, what he went home to.

14 That's the story of William Dickerson.  
15 And, yes, you'll hear about some of the drug  
16 crimes and other things and you'll hear he  
17 spent almost ten years in the Department of  
18 Corrections.

19 I think one of the important points  
20 that I want you to look at is those ten years,  
21 all the disciplinary infractions for almost ten  
22 years. He never had weapons, he never had  
23 shanks, he never assaulted any correctional  
24 officer or staff while he was in the Department  
25 of Corrections. He showed, by his history, he

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.

3430

1     could adjust and not be a threat inside the  
2     prison for those ten years that he was in the  
3     Department of Corrections.

4             That's his story and you're going to  
5     hear a lot of evidence over the next three or  
6     four days that tells that story. Each one of  
7     you responded to Judge Dennis, and under oath,  
8     that you would give meaningful consideration to  
9     that, you would listen to it.

10            Remember, Judge Dennis told you that  
11     the law does not require the death penalty. At  
12     the end of this process he will instruct you  
13     that before you can even consider the death  
14     penalty that you have to find, beyond a  
15     reasonable doubt, one aggravating circumstances  
16     -- kidnaping, criminal sexual conduct or  
17     torture.

18            We accept your verdict from last week  
19     and have no quarrel with it, you've done a  
20     difficult job. The real decision, after the  
21     finding of an aggravating circumstance beyond a  
22     reasonable doubt goes back to that simple  
23     question -- life without parole or the ultimate  
24     punishment. We submit that life without  
25     parole, as you hear the evidence unfold, will

1 be a just verdict. No one will argue with that  
2 verdict because William Dickerson is not the  
3 worst of the worse.

4 It is no surprise that he has ended up  
5 where we are today. That evidence should mean  
6 something to you.

7 The Solicitor gave you one definition  
8 of mitigating circumstances, that the reduces  
9 moral culpability. A much simpler definition,  
10 quite frankly, is anything you find -- you, as  
11 an individual juror -- to support a life  
12 without parole sentence. So for some of you it  
13 may be the information you receive about his  
14 childhood. Because we know that for every one  
15 of you who got here today its because of your  
16 parents. I'm standing here today because of  
17 two wonderful human beings, my mother and  
18 father. Some of us overcome adversity but  
19 we know those years shape it. It's not an  
20 excuse. Anybody who tells you that it's an  
21 excuse, it is not an excuse.

22 What is for your consideration, as an  
23 individual juror, is why you should accept a  
24 life without parole penalty in this case  
25 'because of what I've heard about William

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.

3432

1 Dickerson's life.' Is that something that  
2 matters?

3           You may hear from family members. You  
4 may hear from some mental health specialist  
5 who's going through records and will present  
6 that information to you. Because you told us,  
7 each and every one, that honestly you wanted to  
8 hear evidence; you wanted to hear not just what  
9 happened on March 6<sup>th</sup>. But if you've got to  
10 judge another human being's life, you want to  
11 know everything. And you should. And the law  
12 demands it. Judge Dennis asked you that, said  
13 would you want to hear everything, would you  
14 listen to everything, and you said 'yes.' So  
15 you are going to hear that story, that painful  
16 story.

17           And I want to tell you one other  
18 thing. You will see some photographs that you  
19 haven't seen yet of what happened on March 7<sup>th</sup>  
20 and 8<sup>th</sup>. They're difficult to look at it. I  
21 find them difficult to look at. But you know  
22 what, the stuff that happened to William  
23 Dickerson when he was four months, five years  
24 old, ten years old, no one was taking pictures  
25 of that. I don't have those photographs to

1 show you but it is no surprise as to what  
2 brought him here today.

3 So I ask you look at the evidence, I  
4 ask you to wait until you've heard it all, and  
5 I'm confident that you hear this compelling  
6 life story that no human being should have had  
7 to live like he did. That will be you saying,  
8 'this is a case that is not the worst of the  
9 worse, it's no surprise that we are here  
10 today.' A life without parole verdict is a  
11 better resolution in this case.

12 Our sympathies go out to the Roper  
13 family. No family should have to go through  
14 what they have had to go through.

15 Interestingly, Sandra Fokes, one of  
16 her last answers, she prayed that there -- I  
17 can't remember the exact words but she prays  
18 for resolution for her family and for the Roper  
19 Family. I submit to you that a sentence of  
20 life without parole is appropriate, one that  
21 each of you in your own individualized,  
22 reasoned moral judgment can accept.  
23 Also, remember that the Judge told you that you  
24 can find life without parole for any reason,  
25 for no reason, or a simple act of mercy. If

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

3434

1 you in your individualized, reasoned moral  
2 judgment can't attach a reason to it but feel  
3 that based on his life -- it may be his  
4 background in the Department of Corrections, or  
5 may be anything or it may be that, you know  
6 what, 'I just can't put my finger on it. I  
7 don't have a reason. I just know life without  
8 parole for William Dickerson is the right  
9 sentence.'

10 You know what, when you hear the story  
11 of William Dickerson you will agree that this  
12 is not the worse of the worst, and the correct  
13 verdict is life without parole.

14 Thank you.

15 THE COURT: Thank you, Mr. Bloom.  
16 Solicitor, you may call your first witness.

17 SOLICITOR WILSON: Your Honor, we'd  
18 move first to incorporate the testimony and the  
19 evidence in the first phase into this phase of  
20 the record.

21 THE COURT: It is so done. All of  
22 the objections previously entered are preserved  
23 and protected. Any other objections?

24 MR. BLOOM: No, we would just  
25 preserve all previous objections.

1 THE COURT: They are preserved.

2 Thank you, Solicitor. That is done, it is  
3 incorporated.

4 Ladies and Gentlemen, that means  
5 obviously that all the testimony that you heard  
6 previously, that's a part of this proceeding  
7 now for your consideration.

8 You may call your first witness.

9 RUTLEDGE DURANT: The State calls  
10 Edward Haselden.

11 (WITNESS TAKES STAND)

12 EDWARD HASELDEN, JR., being duly sworn  
13 to tell the truth, the whole truth and nothing  
14 but the truth, testified, as follows:

15 DIRECT EXAMINATION

16 BY RUTLEDGE DURANT:

17 Q. Good morning.

18 A. Morning.

19 Q. Would you please tell the jury what your  
20 occupation is?

21 A. I'm the Family Court manager. I manage  
22 the day-to-day operations for Julie Armstrong  
23 at Family Court.

24 Q. How long have you been doing that?

25 A. On July 20<sup>th</sup>, it'll be seventeen years.

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

3436

- 1 Q. Is the Clerk of Court's Office the  
2 custodian of all juvenile records of Charleston  
3 County?  
4 A. Yes.  
5 Q. What juvenile records are maintained?  
6 A. Any records that are filed with the Court.  
7 Q. Do the records include disposition orders  
8 for children that are adjudicated delinquent in  
9 Charleston County?  
10 A. Yes.  
11 Q. I hand you what's been marked as State's  
12 Exhibit 333 for identification and ask you to  
13 take a look at it.  
14 A. (Review).  
15 Q. Do you recognize it?  
16 A. I do.  
17 Q. What is it?  
18 A. It's an Order for probation.  
19 Q. I hand you State's 334 for identification  
20 and ask you to take a look at it. Do you  
21 recognize it?  
22 A. (Upon review) -- I do.  
23 Q. What is it?  
24 A. It's an Order for probation as well.  
25 Q. Are the originals of those documents



1 maintained by the Clerk of Court in the  
2 ordinary course of business?

3 A. Yes, sir.

4 Q. Is the Clerk's Office required by law to  
5 maintain those documents?

6 A. Yes, sir.

7 Q. I believe each of those documents bears a  
8 certification seal from the Clerk's Office  
9 indicating that they are true and correct  
10 copies of the originals on file in your office?

11 A. They do.

12 Q. Are State's Exhibits 333 and 334 exact  
13 copies of the original documents filed in your  
14 office?

15 A. Yes, sir.

16 Q. With regard to State's 333, who is the  
17 juvenile listed on the Order?

18 A. William Oliver Dickerson.

19 Q. What is the date of the Order?

20 A. April 11, 1991, that is when it was signed  
21 by Judge Creech.

22 Q. What offense was William Dickerson  
23 adjudicated delinquent of?

24 A. This says "committed the offense of  
25 possession of a stolen vehicle."

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.

3438

1 Q. And what is the disposition?

2 A. It says, "The minor admitted having  
3 committed the offense of possession of a stolen  
4 vehicle."

5 Q. And what was the sentence?

6 A. It says, "The Court has jurisdiction. The  
7 minor is to be placed on probation and shall be  
8 supervised on probation by the Department of  
9 Youth Services."

10 Q. With regarding to State's Exhibit 334, who  
11 is the juvenile listed on that document?

12 A. William Oliver Dickerson.

13 Q. What was the date of that Order?

14 A. It's signed by Judge Creech on October 28,  
15 1996.

16 Q. What offense is William Dickerson  
17 adjudicated delinquent of there?

18 A. It says, "At a dispositional hearing that  
19 the minor admitted being guilty of having  
20 committed the offense of being ungovernable."

21 Q. What was the disposition of that?

22 A. "The minor be placed on probation and  
23 supervised on probation by the Department of  
24 Youth Services."

25 Q. Thank you, sir.

1 RUTLEDGE DURANT: Your Honor, at this  
2 time the State would move Exhibits 333 and 334  
3 into evidence.

4 THE COURT: Any objection?

5 MR. BLOOM: No objection.

6 THE COURT: Without objection, they  
7 are admitted.

8 (SO ENTERED AS STATE'S EXHIBIT 333)

9 (SO ENTERED AS STATE'S EXHIBIT 334)

10 THE COURT: You may cross examine.

11 CROSS EXAMINATION

12 BY MR. BLOOM:

13 Q. Mr. Haselden, do your records indicate  
14 William completed both those terms of  
15 probation successfully?

16 A. I just have the Order for probation in  
17 front of me. I don't have the full file in  
18 front of me.

19 Q. All right, sir. So if he did well on  
20 probation and paid restitution for those  
21 offenses, you wouldn't know about that? You  
22 just have the adjudication.

23 A. They would have been filed in the Court  
24 files.

25 MR. BLOOM: Thank you very much,

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.

3440

1 sir.

2 THE COURT: Redirect?

3 RUTLEDGE DURANT: Nothing, Your  
4 Honor.

5 THE COURT: You may come down.  
6 Thank you, sir.

7 (WITNESS TAKES STAND)

8 THE COURT: Call your next witness,  
9 please.

10 RUTLEDGE DURANT: The State calls Ian  
11 Traynor.

12 (WITNESS TAKES STAND)

13 IAN FRANCES TRAYNOR, being duly sworn  
14 to tell the truth, the whole truth and nothing  
15 but the truth, testified, as follows:

16 DIRECT EXAMINATION

17 BY RUTLEDGE DURANT:

18 Q. Good morning, Ms. Traynor.

19 A. Good morning.

20 Q. Would you please tell the jury where  
21 you're employed?

22 A. With the Charleston County Clerk of Court.

23 Q. And how long have you been employed with  
24 the Charleston County Clerk of Court?

25 A. Three and a half years.

1 Q. What are your duties and responsibilities  
2 with the Charleston County Clerk of Court?

3 A. I'm the General Sessions supervisor.

4 Q. Is the Clerk of Court's Office the  
5 custodian of all criminal records for  
6 Charleston County?

7 A. Yes, it is.

8 Q. What criminal records are maintained?

9 A. All case filings and Orders.

10 Q. Do the records include indictments?

11 A. Yes.

12 Q. I'm showing you a document, starting with  
13 State's Exhibit 327 and ask you to look at it.  
14 Do you recognize that?

15 A. (Upon review) -- yes, I do.

16 Q. What is that?

17 MR. BLOOM: Your Honor, can we see  
18 the documents? I don't know what they're  
19 showing her.

20 THE COURT: Certainly.

21 RUTLEDGE DURANT: (Tenders exhibit to  
22 Mr. Bloom).

23 MR. BLOOM: (Upon review) -- Your  
24 Honor, we would have a matter of law to take  
25 up.

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.

3442

1 THE COURT: All right. Ladies and  
2 Gentlemen, I need for you to go to your jury  
3 room. Do not begin your deliberations. Don't  
4 discuss the case.

5 (JURY OUT @ 10:15 A.M.)

6 THE COURT: Yes, sir.

7 MR. BLOOM: Your Honor, we would  
8 object to the introduction of the actual  
9 indictments for Mr. Dickerson's prior  
10 convictions. Under *State v. Lemming Arthur* our  
11 state Supreme Court says that the underlying  
12 document can be published. In *Arthur* they  
13 introduced documents to show that he was  
14 charged with murder and pled guilty to  
15 involuntary manslaughter. Our Supreme Court  
16 reversed the sentence and said that the jurors  
17 should not have been told what the charge was,  
18 just the conviction and the sentence. Some of  
19 these charges are lesser-included offense. I  
20 don't believe that the indictments themselves  
21 are proper to introduce into evidence. They  
22 contain hearsay or other matters.

23 So under *Lemming Arthur*, I think they  
24 can elicit what the Defendant pled guilty to  
25 and what the sentence was but not the

1 indictments.

2 RUTLEDGE DURANT: Your Honor, I think  
3 we'll concede that point, remove the indictment  
4 and publish the sentencing sheet.

5 THE COURT: That'll be fine. Are  
6 there any other documents that you have that  
7 you intend to introduce this morning that you  
8 haven't shown the defendant yet?

9 RUTLEDGE DURANT: I don't ---

10 BRUCE DURANT: I believe those  
11 were provided to the defendant in discovery,  
12 Your Honor.

13 THE COURT: All right.

14 BRUCE DURANT: Your Honor, while  
15 we've got the jury out, too, there's also going  
16 to be an issue with this next witness regarding  
17 -- which will be Ron Hull. Maybe we should go  
18 ahead and deal with that now.

19 THE COURT: Okay.

20 BRUCE DURANT: Ron Hull is a  
21 Charleston City Police Department officer who  
22 is going to testify that he responded to the  
23 Defendant's residence, when I think the  
24 Defendant was fourteen or fifteen, at the  
25 request of his mother who had found weapons in

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.

3444

1 his closet during cleaning of his room. He  
2 responded to the location and recovered two  
3 weapons from the Defendant's closet.

4 Another incident he is going to go  
5 into was something the defendant was convicted  
6 of and I don't believe that they have any  
7 grounds to object to that but they did kind of  
8 indicate that they were objecting to the  
9 uncharged conduct.

10 THE COURT: Okay.

11 BRUCE DURANT: Also this morning  
12 we anticipate testimony from a victim of an  
13 armed robbery, a Mr. George Fordham, who will  
14 testify that he was robbed by the Defendant,  
15 Mr. Dickerson. It's something that occurred in  
16 '93, or somewhere in that range.

17 I just wanted to bring that to the  
18 court's attention before I ploughed ahead.

19 THE COURT: Thank you, sir. The  
20 only thing they're going to bring in and  
21 introduce is the conviction. We're not going  
22 to mention nor are we going to introduce the  
23 indictments.

24 MR. BLOOM: The next incident, as I  
25 understand, that they are going to elicit is an



1 incident that allegedly occurred on August 20,  
2 1993 where William's mother called the police.  
3 The officer responded and found a gun in his  
4 closet. We would object under the Fourth  
5 Amendment. No search warrant was involved. It  
6 was in the Defendant's room, he was 15 years  
7 old at the time and I think that it is similar  
8 to a situation where a landlord or someone who  
9 had control over the house in general and  
10 someone's individual room would require the  
11 officer to go and get a search warrant and  
12 returning. We would object on the Fourth  
13 Amendment grounds to illegal search and  
14 seizure.

15 THE COURT: Do you wish to be heard  
16 further on that?

17 RUTLEDGE DURANT: (Negative gesture).

18 THE COURT: I'm not going to allow  
19 that.

20 BRUCE DURANT: You're not going to  
21 allow that?

22 THE COURT: No.

23 BRUCE DURANT: How about the armed  
24 robbery?

25 MR. BLOOM: The armed robbery ended

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.

3446

1 up in a dismissal, with the alleged victim  
2 signing an affidavit saying that he wasn't sure  
3 that he could identify William Dickerson.

4 THE COURT: No. Thank you, sir.

5 MR. BLOOM: The remaining incident  
6 which the Solicitor wants to get into was the  
7 1996 situation where the police were trying to  
8 arrest Mr. Dickerson for an armed robbery. The  
9 officer will testify about that 1996 incident  
10 where they were trying to arrest him and he  
11 fled from the officers. Officers say that he  
12 had a firearm and pointed it at them, they  
13 ended up shooting him and he ended up getting  
14 arrested and ultimately ended up pleading  
15 guilty. I acknowledge that as long as the  
16 officer does not get into what the alleged  
17 arrest was about, that that ---

18 THE COURT: He can simply testify as  
19 to why he was there to stop him.

20 MR. BLOOM: To arrest him.

21 BRUCE DURANT: Could we at least  
22 proffer the testimony when we get to that  
23 point?

THE COURT: You can proffer  
anything.

1 BRUCE DURANT: Because the case  
2 law is clear that uncharged conduct ---

3 THE COURT: I appreciate it. But  
4 let me just say something. Uncharged conduct  
5 that results in a dismissal, I'm not going to  
6 allow it because it's got to be clear and  
7 convincing. That's equivocation, in my  
8 opinion. So you -- but you certainly can put  
9 it in. I don't quarrel with your right to put  
10 it in.

11 BRUCE DURANT: I understand that,  
12 Your Honor. But basically there are kind of  
13 extenuating circumstances as to what went on.

14 THE COURT: Mr. Durant, I appreciate  
15 it, sir. I told you before, this is a  
16 situation where I'm not about to -- Lyle is  
17 very, very tenuous. I think when you're in  
18 this stage of the game, it's even more so.  
19 And, furthermore, we're talking about something  
20 that's thirteen years from the date of the  
21 crime, which is another problem that I have. I  
22 don't have any problem with the convictions,  
23 those are -- you are entitled to those,  
24 absolutely, without any quarrel. But you  
25 certainly can proffer it.

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.

3448

1 BRUCE DURANT: I understand, Your  
2 Honor. And certainly we will follow your  
3 direction.

4 THE COURT: Again, you proceed as  
5 you deem appropriate, and I don't have any  
6 quarrel with the fact that it's very pertinent  
7 and very proper for the State to present it. I  
8 am just am not going to permit that particular  
9 -- that particular one to come in.

10 BRUCE DURANT: Yes, Your Honor.

11 THE COURT: Are we ready? Let's  
12 bring in our jury, please.

13 (JURY IN @ 10:30 A.M.)

14 THE COURT: You may be seated.  
15 Thank you, Ladies and Gentlemen. We're ready  
16 to continued. Mr. Durant, you may continue  
17 your examination.

18 RUTLEDGE DURANT: Thank you, Your  
19 Honor.

20 DIRECT EXAMINATION CONTINUED

21 BY RUTLEDGE DURANT:

22 Q. Ms. Traynor, I've got six documents. The  
23 first is State's 327. I ask you if you  
24 recognize that document?

25 A. (Upon review) -- yes, I do.

1 Q. And what is that?

2 A. It's a sentencing sheet for General  
3 Sessions.

4 Q. And State's Exhibit 328? Do you recognize  
5 that?

6 A. Yes.

7 Q. What is that?

8 A. Also a sentencing sheet.

9 Q. 329?

10 A. Yes.

11 Q. What is that?

12 A. A sentencing sheet.

13 Q. State's 330?

14 A. (Upon review) -- another sentencing sheet.

15 Q. State's 331.

16 A. Also a sentencing sheet.

17 Q. And State's 332.

18 A. Sentencing sheet.

19 Q. Are those documents maintained by the  
20 Clerk of Court for Charleston County?

21 A. Yes, they are.

22 Q. Are they maintained in the ordinary course  
23 of business?

24 A. Yes.

25 Q. Is the Clerk's Office required by law to

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

3450

1 maintain those documents?

2 A. Yes, it is.

3 Q. Does each of those documents have a seal  
4 from the Clerk of Court?

5 A. (Upon review) -- yes, they do.

6 Q. Does that seal certify that they are true  
7 and correct copies of the originals on file in  
8 your office?

9 A. Yes, they do.

10 RUTLEDGE DURANT: Your Honor, at this  
11 time the State moves for the admission of  
12 State's Exhibits 327 through 332.

13 (SO ENTERED AS STATE'S EXHIBIT 327)

14 (SO ENTERED AS STATE'S EXHIBIT 328)

15 (SO ENTERED AS STATE'S EXHIBIT 329)

16 (SO ENTERED AS STATE'S EXHIBIT 330)

17 (SO ENTERED AS STATE'S EXHIBIT 331)

18 (SO ENTERED AS STATE'S EXHIBIT 332)

19 MR. BLOOM: No objection.

20 THE COURT: Without objection, they  
21 are admitted.

22 DIRECT EXAMINATION CONTINUED

23 BY RUTLEDGE DURANT:

24 Q. With regard to State's Exhibit 327, who is  
25 the defendant listed on the sentencing sheet?

- 1 A. William Dickerson.
- 2 Q. What is his date of birth?
- 3 A. August 24, 1976.
- 4 Q. Does his social security number appear
- 5 there?
- 6 A. Yes, it does.
- 7 Q. What is it?
- 8 A. 249-33-7829.
- 9 Q. What is the date of conviction?
- 10 A. June 1, 1994.
- 11 Q. What was he convicted of?
- 12 A. Assault of a high and aggravated nature.
- 13 Q. What was the sentence?
- 14 A. (Reading): "The defendant is committed to
- 15 a term of YOA not to exceed six years."
- 16 Q. With regard to State's 328, who is the
- 17 defendant?
- 18 A. William Dickerson.
- 19 Q. What is his date of birth?
- 20 A. August 24, 1976.
- 21 Q. What is his social security number?
- 22 A. 249-33-7829.
- 23 Q. What was the date of conviction?
- 24 A. June 1, 1994.
- 25 Q. What was he convicted of?

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

- 1 A. Strong arm robbery.
- 2 Q. What was the sentence?
- 3 A. (Reading): "The defendant William  
4 Dickerson is committed under the Youthful  
5 Offender Act not to exceed six years."
- 6 Q. With regard to State's 329 who is the  
7 defendant?
- 8 A. William O. Dickerson.
- 9 Q. What is his date of birth?
- 10 A. August 24, 1976.
- 11 Q. What is his social security number?
- 12 A. 249-33-7829.
- 13 Q. What was the date of conviction?
- 14 A. July 14, 1998.
- 15 Q. What was he convicted of?
- 16 A. Resisting arrest with a deadly weapon.
- 17 Q. What was the sentence?
- 18 A. The defendant was committed to the  
19 Department of Corrections for a term of ten  
20 years. Credit was given for time served.
- 21 Q. With regard to State's 330, who is the  
22 defendant?
- 23 A. William O. Dickerson.
- 24 Q. What is his date of birth?
- 25 A. August 24, 1976.



- 1 Q. What is his social security number?
- 2 A. 249-33-7829.
- 3 Q. What is the date of the conviction?
- 4 A. July 14, 1998.
- 5 Q. What was he convicted of?
- 6 A. Assault with intent to kill.
- 7 Q. What was the sentence?
- 8 A. (Reading): "The defendant is committed to
- 9 the State Department of Corrections for a term
- 10 of ten years, provided the sentence be
- 11 suspended on service of five years. The
- 12 balance suspended on probation for five years.
- 13 Defendant is given credit for twenty-six
- 14 months, and that is consecutive to 96-GS-10-
- 15 4246 (phonetic)."
- 16 Q. With regard to State's 331, who is the
- 17 defendant?
- 18 A. William Dickerson.
- 19 Q. What is his date of birth?
- 20 A. August 24, 1976.
- 21 Q. What is his social security number?
- 22 A. 249-33-7829.
- 23 Q. What is the date of conviction?
- 24 A. July 14, 1998.
- 25 Q. What was he convicted of?

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

1 A. Pointing a firearm.

2 Q. And what was the sentence?

3 A. (Reading): "Defendant is committed to  
4 the State Department of Corrections for five  
5 years."

6 Q. With regard to State's 302, who is the  
7 defendant?

8 A. William Dickerson.

9 THE COURT: 302?

10 RUTLEDGE DURANT: 332, excuse me.

11 THE COURT: Thank you.

12 DIRECT EXAMINATION CONTINUED

13 BY RUTLEDGE DURANT:

14 Q. Who is the defendant?

15 A. William Dickerson.

16 Q. What is his date of birth?

17 A. August 24, 1976.

18 Q. What is his social security number?

19 A. 249-33-7829.

20 Q. What was the date of conviction?

21 A. July 14, 1998.

22 Q. What was he convicted of?

23 A. Pointing a firearm.

24 Q. What was the sentence?

25 A. (Reading): "The defendant is committed

1 to the State Department of Corrections for a  
2 term of five years."

3 RUTLEDGE DURANT: Please answer any  
4 questions the defense may have.

5 THE COURT: Cross-examine?

6 MR. BLOOM: May it please the Court,  
7 Your Honor.

8 CROSS EXAMINATION

9 BY MR. BLOOM:

10 Q. The last ones you read, the assault with  
11 intent to kill, resisting arrest and pointing  
12 of firearms, those were all the same incidents  
13 and he plead guilty on the same day in Court;  
14 is that correct?

15 A. Yes.

16 Q. That was all one incident but four charges  
17 -- four convictions from one incident?

18 A. (Upon review) -- the date of offense for  
19 pointing a firearm, both charges, was the same.  
20 The assault date of offense is a different  
21 date.

22 Q. Could that be a clerical error? Are they  
23 similar dates?

24 A. It could be. They are a day apart.

25 Q. But from your records it appears he pled

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.

3456

1 guilty all on the same date to those four  
2 counts?

3 A. Yes.

4 Q. He had been incarcerated prior to that for  
5 twenty-six months. That's what the credit for  
6 jail time is?

7 A. Yes.

8 Q. So it was two years before he got to Court  
9 and plead guilty?

10 A. (Affirmative nod).

11 Q. You have to say 'yes' or -- you can't  
12 shake your head.

13 A. "Yes."

14 Q. Thank you. And the other one, I think you  
15 said assault of a high and aggravated nature  
16 and strong armed robbery, those were also one  
17 incident that he plead to on the same date to  
18 both; is that correct?

19 A. Yes, that's correct.

20 Q. Thank you.

21 THE COURT: Redirect?

22 RUTLEDGE DURANT: No further  
23 questions, Your Honor.

24 THE COURT: Thank you. You may step  
25 down.

1 (WITNESS STEPS DOWN)

2 THE COURT: Call your next witness,  
3 please.

4 SOLICITOR WILSON: Beg the Court's  
5 indulgence.

6 THE COURT: Certainly.

7 BRUCE DURANT: The State would  
8 call Ronald Hull.

9 (WITNESS TAKES STAND)

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

13 DIRECT EXAMINATION

14 BY BRUCE DURANT:

15 Q. Good morning, Mr. Hull. Would you please  
16 tell the jury what you do for a living?

17 A. I'm employed by the Charleston City Police  
18 Department and work in the detective division.

19 Q. And how long have you been with the  
20 detective division with the City?

21 A. Twenty years next month.

22 Q. What were you doing at the City back in  
23 1993?

24 A. Uniform patrol in the downtown area.

25 Q. In that capacity did you have the occasion

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.

3458

1 to respond to Hester Park on the evening of  
2 November 5 of 1993?

3 A. Yes, I did.

4 Q. With reference to what?

5 A. The initial dispatch was a gunshot fired  
6 in the area.

7 Q. And what did you observe upon arriving in  
8 the area of Esther Park?

9 A. When I got in the area I observed a group  
10 of black males walking from the area of the  
11 park.

12 Q. In reference to the investigation, what  
13 did you do?

14 A. I stopped them for investigatory purposes  
15 and asked them if they were involved in it.  
16 And they all reported that they had just been  
17 robbed at gunpoint in Hester Park.

18 Q. How many suspects were identified by you  
19 at the time of the incident?

20 A. There were three, all named by all of the  
21 victims.

22 Q. And what were the names?

23 A. The three suspects were William Dickerson,  
24 Antonio Nelson and Derek Jenkins.

25 Q. How many victims were involved?

1 A. There were nine victims.

2 Q. And was one of the victims a fellow named  
3 Leon Fludd?

4 A. Yes, it was.

5 Q. To your knowledge, was the Defendant  
6 William Dickerson subsequently prosecuted for  
7 his involvement in this robbery?

8 A. Yes, he was.

9 Q. Were you aware that he was convicted of  
10 strong arm robbery and assault of a high and  
11 aggravated nature in June of 1994 as a result  
12 of this incident?

13 A. Yes, sir, I am.

14 Q. And received a youthful offender sentence?

15 A. Yes, sir.

16 BRUCE DURANT: Please answer any  
17 questions defense counsel may have for you.

18 CROSS EXAMINATION

19 BY MR. CARROLL:

20 Q. Detective Hull, I believe your investiga-  
21 tion indicated that the initial demand, if you  
22 will, was over some dope?

23 A. I don't recall that.

24 Q. You don't recall the witnesses saying that  
25 they were asked, "Do you have any dope?"

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.

3460

1 A. Not in my report. I just did the initial  
2 call and the detectives came afterward and did  
3 the followup.

4 Q. There were other officers involved in  
5 continuing the investigation, if you will?

6 A. Correct.

7 Q. Hester Park, is that an area known for  
8 drug dealing?

9 A. At that time it was.

10 MR. CARROLL: Beg the Court's  
11 indulgence.

12 THE COURT: Okay.

13 CROSS EXAMINATION CONTINUED

14 BY MR. CARROLL:

15 Q. I believe the initial report indicated  
16 that there were multiple defendants involved in  
17 this incident?

18 A. Correct.

19 MR. CARROLL: No further questions,  
20 Your Honor.

21 THE COURT: Redirect?

22 BRUCE DURANT: No, sir, Your  
23 Honor.

24 THE COURT: All right, at this  
25 point, Ladies and Gentlemen, there are some



1 matters that I need to take up out of your  
2 presence. Also we need to take a break and  
3 we'll probably use this opportunity for the  
4 court personnel to take a break. Please go to  
5 your jury room. Do not begin your  
6 deliberations. We'll be with you very shortly.

7 (JURY OUT @ 10:44 A.M.)

8 THE COURT: Mr. Hull, they have just  
9 a couple more questions for you, sir.

10 PROFFER EXAMINATION

11 BY BRUCE DURANT:

12 Q. I just need to ask you a couple more  
13 questions, Mr. Hull. While you were on routine  
14 patrol back in 1993, did you have the occasion  
15 to respond to 115-D Spring Street on August 20,  
16 1993?

17 A. Yes, I did.

18 Q. Who lived at that residence?

19 A. The individual who called was Ms. Sarah  
20 Jenkins who lived there with the defendant.

21 Q. Sarah Jenkins or Sandra Jenkins?

22 A. Sandra.

23 Q. Are you aware that her name is now Sandra  
24 Fokes?

25 A. Yes, I am.

1 Q. And she is the mother of the Defendant; is  
2 that correct?

3 A. Correct.

4 Q. Who had contacted the police?

5 A. She did herself.

6 Q. And why?

7 A. For finding a firearm in her son's  
8 bedroom, the Defendant's bedroom.

9 Q. Did you respond to the location?

10 A. Yes, I did.

11 Q. What did you do upon arriving at 115-D  
12 Spring Street?

13 A. She escorted me to the bedroom and showed  
14 me the pistol that she'd found. She had  
15 concerns for it. I checked the rest of the  
16 area and found an additional firearm in there,  
17 as well as a bullet.

18 Q. What firearms did you find in the  
19 Defendant's bedroom?

20 A. A .22 caliber semi-automatic pistol and  
21 also a .32 caliber revolver.

22 Q. What did you do with those weapons?

23 A. They were collected for evidence and  
24 turned into our evidence custodian.

25 Q. Was the defendant present at the time?

1 A. No, he was not.

2 BRUCE DURANT: That would pretty  
3 much be it, Your Honor.

4 THE COURT: And that's the testimony  
5 to which you object?

6 MR. BLOOM: Yes, sir.

7 THE COURT: The date on that is '93?

8 BRUCE DURANT: '93, Your Honor.

9 And, understand, I am not asking ---

10 THE COURT: Let me ask you about  
11 this, because the incident that he's already  
12 testified to, as I understood, occurred in '94?

13 BRUCE DURANT: It was '93 as well.  
14 The thing at the house was in August of '93.  
15 The robberies was November.

16 THE COURT: And we're talking about  
17 firearms after that fact that he was in  
18 possession of?

19 BRUCE DURANT: That's correct.

20 THE COURT: And used?

21 BRUCE DURANT: Exactly.

22 THE COURT: I'm concerned about it's  
23 in the home, I'm concerned about that. The  
24 mother has a right to allow that, that's really  
25 not a problem. It's really more cumulative and

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

3464

1 the concern I have is there are some peripheral  
2 issues of just simply you have the evidence and  
3 that he's using a firearm anyway. So it's  
4 really more cumulative, and I think the  
5 probative value is outweighed by the potential  
6 prejudice. So that's the reason for excluding  
7 it.

8 BRUCE DURANT: Thank you, Your  
9 Honor.

10 THE COURT: Thank you very much.  
11 But I don't quarrel with -- I'm not concerned  
12 about the search now that I've heard the  
13 evidence. Okay? Thank you.

14 Thank you very much you may come down.

15 (WITNESS STEPS DOWN)

16 THE COURT: Let's take about five  
17 minutes. Thank you.

18 (BRIEF RECESS)

19 (DEFENDANT PRESENT)

20 THE COURT: Let the record reflect  
21 Mr. Dickerson is present. Is the State ready  
22 to proceed?

23 SOLICITOR WILSON: Yes, sir.

24 BRUCE DURANT: We have the other  
25 witness here on that other part that we wanted

1 to make a proffer on.

2 THE COURT: Okay. You want to go  
3 ahead and do that now?

4 BRUCE DURANT: That would probably  
5 be best.

6 THE COURT: That'd be fine.

7 SOLICITOR WILSON: Your Honor, I'm  
8 going to hand up my own copies. *State v.*  
9 *George* and *State v. Middleton*. I believe  
10 *George* came after *Middleton*, and Mr. Bloom said  
11 he had a copy of that. Just on this issue that  
12 we're discussing with Mr. Fludd -- Mr. Fordham,  
13 I'm sorry.

14 (WITNESS TAKES STAND)

15 GEORGE FORDHAM, being duly sworn to  
16 tell the truth, the whole truth and nothing but  
17 the truth, testified, as follows:

18 PROFFER EXAMINATION

19 BY BRUCE DURANT:

20 Q. Mr. Fordham, if you would, please speak  
21 into that microphone so that the judge can hear  
22 you. How old are you, sir?

23 A. Thirty-three years old.

24 Q. How far did you go in school?

25 A. One year of college.

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.

3466

- 1 Q. Where are you employed?
- 2 A. Currently unemployed.
- 3 Q. What are you doing now?
- 4 A. Taking care of my grandma.
- 5 Q. What's wrong with your grandmother?
- 6 A. She has Alzheimer's.
- 7 Q. Do you know the Defendant, William
- 8 Dickerson?
- 9 A. Yes.
- 10 Q. How do you know the Defendant?
- 11 A. He robbed me a long time ago.
- 12 Q. He what'd you a long time ago?
- 13 A. Robbed.
- 14 Q. Did you know who he was at the time?
- 15 A. Yes.
- 16 Q. And how do you know him? How do you know
- 17 of him?
- 18 A. We all lived in the same neighborhood.
- 19 Q. Was he a friend of yours?
- 20 A. No.
- 21 Q. Did you'all ever hang out together?
- 22 A. No.
- 23 If you would, could you tell the Judge
- 24 what happened to you -- between you and the
- 25 defendant in the early morning of March 5 of

1 1996.

2 A. I was walking down Percy Street headed  
3 towards Spring Street.

4 Q. Where were you living at the time?

5 A. Percy.

6 Q. And who were you living with?

7 A. My grandmother.

8 Q. Where were you going?

9 A. I was going To Dave's Seafood.

10 Q. Do you recall what time of day or night  
11 this was?

12 A. 11:00 or 12:00, something like that.

13 Q. So it was nighttime, is that correct?

14 A. Yes.

15 Q. What happened as you were going to Dave's  
16 Seafood.

17 A. He robbed me.

18 Q. Tell us about that. What did he do?  
19 Where did he come from?

20 A. He came from around the corner of Bogard  
21 and Percy Street. I was walking down the  
22 street and walked up on him. He put a gun to  
23 my head and robbed me.

24 Q. What did he say to you.

25 A. He asked me for everything I had on me.

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.

3468

- 1 Q. What did you give him?
- 2 A. I think I just had chicken money on me.
- 3 Q. Chicken money?
- 4 A. Yeah.
- 5 Q. And what happened? Did you give him the
- 6 chicken money that you had on you?
- 7 A. Yes.
- 8 Q. What happened then?
- 9 A. After that he wanted more than that. So
- 10 me and him went back to the house and got
- 11 everything I had in the house also.
- 12 Q. Tell us a little bit about that. How did
- 13 you get back to your house?
- 14 A. Walked back.
- 15 Q. When ---
- 16 a. He had a gun and made me walk back.
- 17 Q. What happened when you got back to your
- 18 house?
- 19 A. I went in the room and got everything I
- 20 had in there, money, drugs and all that, gave
- 21 it to him.
- 22 Q. Because that's what he wanted, money and
- 23 drugs; is that correct?
- 24 A. Correct.
- 25 Q. Were you in the business back then?



1 A. Yes, sir.  
2 Q. So what did you give him?  
3 A. The drugs I had in the house and the money  
4 I had in the house.  
5 Q. At any time during this incident did he  
6 threaten you in any way?  
7 A. Well, yeah, when we was on the street he  
8 threatened me.  
9 Q. What did he say to you on the street?  
10 A. If I didn't give him what I had he was  
11 going to kill me.  
12 Q. He was going to kill you?  
13 A. Yes.  
14 Q. What happened after you gave him the drugs  
15 that you had back at your house?  
16 A. He left.  
17 Q. What did you do?  
18 A. Grabbed my father's gun and shot at him.  
19 Q. Where did you shoot at him from?  
20 A. Off the porch.  
21 Q. And were you able to hit him?  
22 A. No, sir.  
23 Q. Why is that?  
24 A. My mother, she grabbed me while I shot at  
25 him.

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.

3470

1 BRUCE DURANT: That would be  
2 pretty much the testimony, Your Honor.

3 THE COURT: Do you care to ask any  
4 questions of this witness for purposes of  
5 proffer?

6 BRUCE DURANT: And I know that  
7 even if Your Honor would allow it, you may not  
8 allow this. But let me ask him anyway.

9 PROFFER EXAMINATION CONTINUED

10 BY BRUCE DURANT:

11 Q. You later ended up dropping the charges in  
12 this case. Is that correct?

13 A. Yes.

14 Q. Would you tell the Court why that was?

15 A. He was friends with friends.

16 Q. And who were those friends?

17 A. Family friends.

18 Q. Who were those friends?

19 A. Anderson's.

20 Q. So you didn't drop it because it didn't  
21 happen. \*You dropped it because you were asked  
22 to drop it?

23 A. Um-humm.

24 COURT REPORTER: Say "yes" or ---

25 THE WITNESS: Yes, sir.

1 MR. BLOOM: If he dropped the  
2 charges you would have no purpose in  
3 considering it.

4 THE COURT: I'm certainly  
5 considering it, having now heard it. Clearly,  
6 there's no question the evidence of character  
7 is an issue. I appreciate that. I'm familiar  
8 with that. In *Cottrell*, I tried two murders in  
9 the sentencing phase that were not indicted.  
10 So there's no question it comes in.

11 The concern that I have here frankly  
12 deals with the last question. But, obviously,  
13 we can restrict that and we can limit it  
14 somewhat. I'll be happy for you to ask any  
15 questions you want.

16 MR. CARROLL: May it please the  
17 Court.

18 PROFFER EXAMINATION

19 BY MR. CARROLL:

20 Q. Mr. Fordham, this incident occurred, I  
21 believe you told the police and contacted the  
22 police about 1:30 in the morning?

23 A. Yes.

24 Q. And this had taken place at night?

25 A. Yes.

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

3472

- 1 Q. And whoever walked up behind you came up  
2 from behind you, right?
- 3 A. Yeah.
- 4 Q. I mean out of the dark?
- 5 A. It was dark, yeah, but I still recognized  
6 him.
- 7 Q. And when you filled out your drop charge  
8 form you indicated that you couldn't say it was  
9 Willie D that did it; right?
- 10 A. I said that on the drop form; yes, I did.
- 11 Q. Now, that form was a form that was  
12 provided by the Solicitor's Office, correct?
- 13 A. Correct.
- 14 Q. And the prosecutor is ultimately the one  
15 who decided not to prosecute the case; right?
- 16 A. I'm not sure what happened.
- 17 Q. But you never were invited down to court  
18 to participate in any event; were you?
- 19 A. No.
- 20 Q. And you say this was over drugs?
- 21 A. Yeah, I admitted it.
- 22 Q. And you had a lawyer that you talked with  
23 about this when you decided to drop the charge?
- 24 A. No.
- 25 Q. Were you charged with anything at the

1 time?

2 A. I think I probably was, yeah.

3 Q. And how was it you came to end up at the  
4 Solicitor's office? Did you go down there?

5 A. Yeah, Anderson took me down there.

6 Q. You went down there and you gave them your  
7 identification and told them why you were  
8 there?

9 A. Yes.

10 Q. And you understood that as a result of  
11 your actions they were going to dismiss the  
12 charge?

13 A. Not really, no.

14 Q. But you filled out a drop charge form,  
15 though; right?

16 A. Yes.

17 Q. And on that form it's pre-printed to say  
18 you are doing this freely and voluntarily;  
19 correct?

20 A. Correct.

21 Q. And you were doing that, right?

22 A. Correct.

23 Q. And that was within several weeks of this  
24 incident you described?

25 A. Yes.

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

3474

1 Q. You've been convicted of drug offenses in  
2 the past?

3 A. Yes.

4 Q. And you are currently facing a domestic  
5 violence of a high and aggravated nature  
6 charge?

7 A. No.

8 Q. That charge has been dismissed?

9 A. Yes.

10 Q. When was that?

11 A. Last week some time.

12 MR. CARROLL: Nothing further, Your  
13 Honor.

14 THE COURT: Anything further, Mr.  
15 Durant?

16 BRUCE DURANT: Just a couple.

17 PROFFER REDIRECT EXAMINATION

18 BY BRUCE DURANT:

19 Q. Mr. Fordham, this incident did not occur  
20 out on the street. Is that correct?

21 A. Yes, sir.

22 Q. It occurred in a garage?

23 A. It started when I was on the street, yes.

24 Q. And came back to your house?

25 A. Yes.

1 Q. I'm assuming that your lights were on in  
2 your house?

3 A. Yes.

4 Q. Any question but that it was this man  
5 (indicating Defendant) who was robbing you?

6 A. No.

7 Q. So when you put in your drop charge form  
8 that you weren't sure about that, was that  
9 true?

10 A. No, it wasn't.

11 Q. And who were his friends that took you  
12 down there at the time you dropped charges?

13 A. The Andersons.

14 Q. Do you remember their first names?

15 A. I think it was Shawn Anderson. I can't  
16 remember the other one, the brother's name.

17 BRUCE DURANT: I have nothing  
18 further.

19 THE COURT: Thank you. Anything  
20 else? You still object to the testimony?

21 MR. BLOOM: Yes, sir.

22 THE COURT: For the reasons -- for  
23 what reasons?

24 MR. BLOOM: Well, starting with Rule  
25 403. I understand the character evidence is --

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.

3476

1 but this is clearly more prejudicial. The  
2 witness himself admits that what was stolen  
3 from him was some drugs and drug money.

4 Secondly, Your Honor, even under the  
5 State v. George case, what happened in George  
6 is there was another murder -- and, of course,  
7 as you indicated -- but in George they talked  
8 about it not being clear and convincing  
9 evidence but it was in connection with another  
10 murder that happened within seventy-two hours.  
11 I subsequently represented Mr. George. It had  
12 been a crime spree of, I believe, three  
13 different armed robberies across three  
14 counties, and two resulted in murders, and they  
15 all occurred within about seventy-two hours of  
16 each other. So there the Court held it was  
17 very probative of character and relevant and  
18 should be for the jury's consideration; that  
19 were similar, convenience stores, robberies.

20 This is nothing like that. This calls  
21 for the jury to speculate. I understand  
22 credibility, the weight given -- credibility is  
23 something that the jury has to decide to give  
24 weight to or not, but this is so far afield --  
25 and it's also been dismissed. The allegations



1     that the Defendant urged him to dismiss it are  
2     nowhere near our case. This is now coming over  
3     ten years later and it's nowhere in the  
4     discovery, some of this testimony is being  
5     offered for the first time. So I think in  
6     that respect that it is also improper at this  
7     point. It's very far afield, there was no  
8     conviction, and it is very far afield as to  
9     conduct -- and I think there has to be some  
10    standard under the admission of evidence to  
11    measure it at this state, not just because it  
12    goes to character or -- but for the State to  
13    bring in a case that is five years old. There  
14    has to be some standard to measure evidence  
15    before Your Honor admits it.

16           The George case where the court says  
17    clear and convincing may not be necessary --  
18    necessarily be -- is from '96 and hasn't been  
19    addressed since then. Other cases still talk  
20    about 404(b), Lyle evidence and the clear and  
21    convincing standard. Since that time, I think  
22    -- the U.S. Supreme Court, under the Eighth  
23    Amendment, evidence has to have some inherent  
24    reliability or the whole process becomes  
25    inherently unreliable.

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.

3478

1 I think this is one of those instances  
2 where willy-nilly anything is being admitted.  
3 I think also instructive that under the  
4 *Burkhart*, 16-3-25, about arbitrary and  
5 capricious evidence -- in that case, it was a  
6 privilege condition. I don't think that the  
7 court can limit the statute to that issue. It  
8 talks about the trial court at this stage have  
9 gatekeeper duties to make sure that the  
10 sentencing information to the jury has some  
11 inherent reliability and is within the  
12 parameters. So for all those reasons we think  
13 your initial ruling was case.

14 THE COURT: Anything further?

15 SOLICITOR WILSON: Your Honor, we  
16 are not at all conceding that the evidence  
17 presented here is anything other than very than  
18 clear and convincing. We think this victim's  
19 testimony is clear and convincing. Even if it  
20 weren't, we still think both of those cases  
21 would be admissible. Again, we're not offering  
22 this evidence to prove aggravating circumstance  
23 but offering it prove the character of the  
24 Defendant.

25 Everything that Mr. Bloom has stated

1 about the circumstances surrounding this goes  
2 to the weight of the evidence and whether or  
3 not the jury considers it. The end part  
4 regarding the circumstances around the  
5 dismissal, certainly we can carve that out and  
6 we would not have to send that to this jury,  
7 because it was the Defendant's friend who did  
8 this and not necessarily the defendant. That  
9 would just offered to show the Court what the  
10 reason was behind his drop charge request.

11 THE COURT: The problem I have is we  
12 start trying whether or not that was even  
13 correct. It simply is not the evidence that I  
14 think rises to the level necessary, even here,  
15 not for aggravating circumstances. It is just  
16 too equivocal for me to allow it. I think the  
17 probative value is outweighed by the prejudice.  
18 It's not necessary. You have an  
19 abundance of character evidence. You have --  
20 this case, just projected, out of all the other  
21 things that Mr. Durant said from the get-go,  
22 you've already established aggravating  
23 circumstances. It's done. I mean, there's no  
24 question that this question is all about  
25 torture and the aggravating circumstances.

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.

3480

1 There's no question about that. And the  
2 horrible aspects of this. I understand his  
3 character, and you have an abundance of that.  
4 I mean, you have the conviction for which he  
5 served time. And, frankly, for a similar type  
6 offense. And so you've got an attitude that's  
7 already there. The character of this person is  
8 created and established by the evidence. This  
9 is merely cumulative, and it's a problem, it's  
10 not necessary. So I sustain the objection.  
11 Thank you. Thank you, sir.

12 BRUCE DURANT: I would ask the Court  
13 that he be excused.

14 THE COURT: Any objection?

15 MR. BLOOM: No, sir.

16 THE COURT: You are free to leave,  
17 sir. Thank you.

18 (WITNESS STEPS DOWN)

19 THE COURT: But thank you for the  
20 cases, Solicitor, and I don't disagree with  
21 them. I would like to see them address it more  
22 currently than the '80's, but we have to deal  
23 with what we have. They had an opportunity, in  
24 *Cottrell*, but they didn't.

25 Okay, are we ready to continue? Let's

1 bring in our jury.

2 (JURY IN @ 11:20 A.M.)

3 BAILIFF: The jury is present,  
4 Your Honor.

5 THE COURT: Thank you, Ladies and  
6 Gentlemen. You may call your next witness,  
7 Solicitor.

8 BRUCE DURANT: We would call Leon  
9 Fludd.

10 (WITNESS TAKES STAND)

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

14 DIRECT EXAMINATION

15 BY BRUCE DURANT:

16 Q. Good morning, Mr. Fludd. That was very  
17 good how you spoke into the microphone. Could  
18 you tell the jury how old you are?

19 A. Fifty-five.

20 Q. And how far did you go in school, sir?

21 A. I stopped at the ninth grade, but I went  
22 back and got my high school diploma.

23 Q. And that was a couple of years ago, I  
24 believe you said?

25 A. Yes.

1 Q. Are you employed?

2 A. Yes, sir. I'm self-employed, and I have a  
3 part-time job at night.

4 Q. What are you self-employed doing?

5 A. Carpentry.

6 Q. And you also have a nighttime job as what?

7 A. Cook.

8 Q. Mr. Fludd, I'm going to ask you about  
9 something that happened a long time ago,  
10 November 5<sup>th</sup> of 1993. Could you tell the jury  
11 about getting robbed?

12 A. Yes. Three guys came up.

13 Q. Who were you with?

14 A. Who was I with?

15 Q. Yes, who were you with at Esther Park that  
16 night, if you remember? Friends of yours?

17 A. Right.

18 Q. And how many folks were on the Park that  
19 night?

20 A. I don't know.

21 Q. What happened while you'all were hanging  
22 out at the Park?

23 A. Three guys came up.

24 Q. Do you remember how many of these guys had  
25 guns?

- 1 A. No.
- 2 Q. And what happened after they came up?
- 3 A. They started robbing us, saying, you know,
- 4 'give it up.'
- 5 Q. Where were you'all in the Park at the
- 6 time?
- 7 A. Sitting on one of the stands at the
- 8 basketball court.
- 9 Q. What did they do after they came up and
- 10 said "give it up"? Were they armed?
- 11 A. Yeah.
- 12 Q. And what were they armed with?
- 13 A. I can't -- don't remember.
- 14 Q. Were they pistols? Rifles? What?
- 15 A. Pistols, I'm pretty sure.
- 16 Q. Pardon?
- 17 A. Kind of short guns.
- 18 Q. What happened specifically that you
- 19 remember? What happened to you?
- 20 A. One of them came up to me. I had some a
- 21 gold chain on and he told me to empty out my
- 22 pockets. I emptied my pockets, he grabbed the
- 23 chain and threw it on the ground.
- 24 Q. What was he doing with his gun?
- 25 A. He just had it, like walking around

- 1     telling everybody don't move and everything.
- 2     Q.   Did he ever point the gun at you?
- 3     A.   Yes.
- 4     Q.   Did he threaten you in any way?
- 5     A.   I mean, pointing a gun at me.
- 6     Q.   That's pretty threatening?
- 7     A.   Yes.
- 8     Q.   So what happened after he popped the chain
- 9     off and was demanding money from you? Did you
- 10    have any money?
- 11    A.   Yes.
- 12    Q.   What did you do with your money?
- 13    A.   Threw it on the ground.
- 14    Q.   Just dropped it on the ground?
- 15    A.   Yes.
- 16    Q.   What did he do?
- 17    A.   It was pretty quick after that. One of
- 18    the guys started running, so he started
- 19    running.
- 20    Q.   Who started running?
- 21    A.   Everybody that was on the Park.
- 22    Q.   Everybody was getting robbed?
- 23    A.   Right.
- 24    Q.   And where did y'all run to?
- 25    A.   On the Park. We started running.



1 Q. What happened while you'all were running?

2 A. I heard shots ring out.

3 Q. What were they shooting out?

4 A. At us.

5 Q. And how do you know that?

6 A. I heard the bullets fly past.

7 Q. Did the police show up?

8 A. They came and they tried to say that we  
9 were out there shooting guns or something like  
10 that, went down to the station and asking us a  
11 bunch of questions.

12 Q. And that's when they learned that you'all  
13 had been robbed.

14 A. Yes.

15 BRUCE DURANT: The Court's indulgence.

16 THE COURT: Certainly.

17 DIRECT EXAMINATION CONTINUED

18 BY BRUCE DURANT:

19 Q. Would you please answer any questions  
20 defense counsel may have for you?

21 A. Yes, sir.

22 THE COURT: Cross examine, counsel.

23 CROSS EXAMINATION

24 BY MR. CARROLL:

25 Q. Mr. Fludd, you'all didn't call the police

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.

3486

1 to report a robbery; did you?

2 A. No.

3 Q. In fact, you'all were there in that Esther  
4 Park that night and the police came up to  
5 question you'all about the gunshots being  
6 fired.

7 A. Correct.

8 Q. But for that, there wouldn't have been a  
9 report about anything; would there?

10 A. No.

11 Q. And the reason for that is because you'all  
12 were out there selling drugs in that Park;  
13 weren't you?

14 A. No, sir.

15 Q. Isn't that a park that's known for drug  
16 selling?

17 A. I don't know.

18 Q. A bunch of fifteen and sixteen-year-olds  
19 that you'all were back then?

20 A. Yes.

21 Q. Hanging out in the park, about 9:00  
22 o'clock or 9:30 at night?

23 A. We were playing basketball and everything.

24 Q. In November. And your gold chain was  
25 taken?

1 A. Right.

2 Q. Or gold chains, correct?

3 A. Right.

4 Q. This was about sixteen years ago or so?

5 A. Right.

6 Q. You didn't know any of the people  
7 involved, did you?

8 A. No.

9 MR. CARROLL: Beg the Court's  
10 indulgence.

11 THE COURT: Certainly.

12 CROSS EXAMINATION CONTINUED

13 BY MR. CARROLL:

14 Q. You were a few years older than the rest  
15 of those boys out there that night?

16 A. Correct.

17 Q. You were about nineteen and they were  
18 fourteen, fifteen?

19 A. Right.

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

22 THE COURT: Redirect.

23 BRUCE DURANT: No, sir, Your  
24 Honor.

25 THE COURT: You may come down, Mr.

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.

3488

1 Fludd.

2 BRUCE DURANT: We would ask that  
3 Mr. Fludd be excused.

4 THE COURT: Any objection to Mr.  
5 Fludd being excused, Mr. Carroll or Mr. Bloom?

6 MR. CARROLL: No, Your Honor.

7 THE COURT: You are free to leave,  
8 sir. Thank you.

9 (WITNESS STEPS DOWN)

10 THE COURT: Call your next witness,  
11 please

12 SOLICITOR WILSON: Antonio Nelson.

13 (WITNESS TAKES STAND)

14 ANTONIO NELSON, being duly sworn to  
15 tell the truth, the whole truth and nothing but  
16 the truth, testified, as follows:

17 DIRECT EXAMINATION

18 BY SOLICITOR WILSON:

19 Q. Pull that microphone down just a little  
20 bit so that we can hear you.

21 A. (Complies).

22 Q. Antoni, you testified last week. Is that  
23 right?

24 A. Yes.

25 Q. And I believe you testified that you had

1 known William Dickerson for a long time. Is  
2 that right?

3 A. Yes.

4 Q. How old were you when you first got to  
5 know the Defendant?

6 A. Teenage years.

7 Q. Teenage years?

8 A. (Affirmative nod).

9 Q. And where was it that you'all got to be  
10 friends?

11 A. Mitchell Park.

12 Q. And what area of town is Mitchell Park?

13 A. The west side.

14 Q. Is that near your house?

15 A. Yes.

16 Q. And you live on Fishburne. Is that right?

17 A. Yes.

18 Q. Which is also near Spring?

19 A. Yes.

20 Q. Was Mitchell Park within walking distance  
21 of Spring and Fishburne?

22 A. Yes.

23 Q. Let's go back to November 5, 1993. Did  
24 you participate in an armed robbery that took  
25 place, not in Mitchell Park but in Hester Park?

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.

3490

- 1 A. Yes.
- 2 Q. Tell the jury who was with you that day
- 3 when you committed that armed robbery.
- 4 A. Me, Will and Popcorn.
- 5 Q. Will? That's the Defendant?
- 6 A. Yes.
- 7 Q. Back then, just a reminder, you were not
- 8 in a wheelchair. Is that right?
- 9 A. No.
- 10 Q. About how old were you when you'all did
- 11 this armed robbery on Hester Park?
- 12 A. Eighteen.
- 13 Q. Were you and Will about the same age?
- 14 A. No.
- 15 Q. Was he older or younger?
- 16 A. He's younger.
- 17 Q. How much younger?
- 18 A. About a year.
- 19 Q. And you said Popcorn was with you?
- 20 A. Yes.
- 21 Q. And back then was his real name Derek
- 22 Jenkins?
- 23 A. Yes.
- 24 Q. Before it got changed to Rashid Malik?
- 25 A. Yes.

1 Q. Has he always been "Popcorn"?

2 A. Yes.

3 Q. Tell the jury how it came to be that the  
4 three of you'all were going to commit this  
5 armed robbery. What happened?

6 A. We were walking down the street, and Will  
7 was out there. He asked me if I wanted to make  
8 some money.

9 Q. If you wanted to do what?

10 A. Make some money. I told him yeah, because  
11 I had just lost my job and my father, he was  
12 angry about getting some money.

13 Q. So who asked you if you wanted to raise  
14 money or get some money?

15 A. Will.

16 Q. All right.

17 A. Him and Popcorn, they both suggested it,  
18 you know.

19 Q. Okay. What area were you'all in when this  
20 was suggested by them?

21 A. Styversent Street.

22 Q. Did you have any idea at that point how  
23 this robbery was going to take place?

24 A. Yes, they said we were going to rob the  
25 drug dealers.

- 1 Q. Okay.
- 2 A. And we went by the park and when we got  
3 out there ---
- 4 Q. Let's stop for a minute. Did you have a  
5 gun on you?
- 6 A. Yes.
- 7 Q. Did Popcorn have a gun?
- 8 A. No.
- 9 Q. Did Will have a gun?
- 10 A. Yes.
- 11 Q. So two of you have guns and Popcorn  
12 doesn't.
- 13 A. Yes. One of the guns didn't work, though.
- 14 Q. Who had the gun that didn't work?
- 15 A. Me.
- 16 Q. Why did you have a gun that didn't work?  
17 What good was that?
- 18 A. Something to show to people. We got out  
19 there and I remember that there was a lot of  
20 young boys out there, brothers out that night.  
21 You know, they don't need to be out here. But  
22 we told them to wait, that nobody was to leave.  
23 One of the boys started running and Will run up  
24 on him with the pistol and chopped him with the  
25 pistol.



1 Q. He did what?

2 A. (No verbal response).

3 Q. He chopped?

4 A. (Affirmative nod), chopped him with the  
5 pistol.

6 Q. Where did he hit him?

7 A. I guess in his head.

8 Q. Was this one of the young guys that you  
9 knew his older brother?

10 A. No, this was one of the drug dealers.  
11 They were trying to run.

12 Q. They were trying to scatter?

13 A. Yes.

14 Q. About how many of them were out there?

15 A. Like fifteen people.

16 Q. Fifty or fifteen?

17 A. Fifteen.

18 Q. And they started to scatter?

19 A. Yes.

20 Q. Were you able to catch up with any of  
21 them?

22 A. With who?

23 Q. With any of the people you were going  
24 after?

25 A. No, they scattered and he yelled for them

1 to stop.

2 Q. How many of them stopped?

3 A. Everybody.

4 Q. What happened after they stopped? Did  
5 you'all have it arranged who would do what?

6 A. Yeah.

7 Q. Who was supposed to do what?

8 A. Popcorn was supposed to go get stuff from  
9 their pockets.

10 Q. You were standing there with the gun?

11 A. Yes.

12 Q. Did Popcorn do his part?

13 A. Yeah.

14 Q. Do Will do his part?

15 A. Yeah.

16 Q. What happened?

17 A. We told to go in a set direction and while  
18 they was going in that direction, one of them  
19 turned around and run. Will had the gun and he  
20 started shooting. He said something to him and  
21 then he started shooting.

22 Q. Who was he shooting at?

23 A. Huh?

24 Q. Who was he shooting at?

25 A. Just trying to get them to run. He wasn't

1 really shooting at anybody. He was just  
2 shooting.

3 Q. Were you okay with him shooting?

4 A. Huh?

5 Q. Were you okay with that?

6 A. My back was turned. I was running.

7 Q. What were you running from?

8 A. The cops.

9 Q. Let me ask you this. When you went and  
10 started this robbery did you just have your  
11 bare face showing?

12 A. No, not at first. I was going to wear a  
13 Halloween mask. But Will said, "You don't need  
14 that" and he took it off my face and that's  
15 when we just went on the Park.

16 Q. Do you know why you didn't need a mask?

17 A. No.

18 Q. But you wanted to wear one and Will said  
19 no.

20 A. Yes.

21 Q. Do you know if any jewelry was stolen  
22 during the robbery?

23 A. Maybe.

24 Q. Did you steal any jewelry?

25 A. No, I didn't touch anybody.

- 1 Q. You didn't touch anybody.
- 2 A. (Negative gesture).
- 3 Q. How much money did you'all get out of that
- 4 robbery?
- 5 A. No more than thirty or forty dollars.
- 6 Q. So that was \$30 or \$40 to be split between
- 7 the three of you?
- 8 A. No, I didn't ask for none.
- 9 Q. I thought the whole reason you went to go
- 10 do the robbery ---
- 11 A. We didn't have enough to split it.
- 12 Q. Antonio, you somehow didn't get charged in
- 13 that; did you?
- 14 A. No.
- 15 Q. Popcorn got charged?
- 16 A. Yes.
- 17 Q. And went to prison for it, right?
- 18 A. Yes.
- 19 Q. And Will got charged and went to prison,
- 20 right?
- 21 A. Yes.
- 22 Q. How did you manage not to get charged?
- 23 A. I didn't have a record. There was another
- 24 guy who has the exact same name as me, he got
- 25 charged with it.

1 Q. Well, did he convicted for your armed  
2 robbery?

3 A. I don't know.

4 Q. But you knew somebody else named Antonio  
5 Nelson got charged?

6 A. Yes.

7 Q. And at some point did the authorities  
8 figure out that you should have been charged?

9 A. Not to my knowledge.

10 Q. Where did you go after all this happened,  
11 after Will got convicted and Popcorn got  
12 convicted? What did you do? What happened  
13 with you?

14 A. I got shot.

15 Q. Did you go to Job Corps before you got  
16 shot?

17 A. Yeah, yeah, yeah.

18 Q. How long were you at the Job Corps?

19 A. Two months.

20 Q. And then when you got out of Job Corps  
21 what happened?

22 A. I got shot.

23 Q. What year was it that you got shot?

24 A. '95.

25 SOLICITOR WILSON: Beg the Court's

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

3498

1 indulgence.

2 THE COURT: Certainly.

3 DIRECT EXAMINATION CONTINUED

4 BY SOLICITOR WILSON:

5 Q. When you'all set out to do the armed  
6 robbery were there any plans to shoot at  
7 people?

8 A. No.

9 Q. Did you think that was going to happen?  
10 Did you know that was going to happen?

11 A. No.

12 SOLICITOR WILSON: That's all I  
13 have, Your Honor.

14 THE COURT: Cross?

15 MR. CARROLL: Very briefly, Your  
16 Honor.

17 CROSS EXAMINATION

18 BY MR. CARROLL:

19 Q. You went out there with the intention of  
20 robbing some drug dealers?

21 A. Yes.

22 Q. You had a gun?

23 A. Yes.

24 Q. But somehow your gun didn't work?

25 A. Yes.

1 Q. And you were out there to rob those drug  
2 dealers because you had sort of fallen on hard  
3 times; right?

4 A. Yes.

5 Q. And you didn't want any of the money?

6 A. What?

7 Q. You didn't want any of the money?

8 A. (No verbal response).

9 Q. While you didn't get convicted of this  
10 crime and you let the other Mr. Nelson take  
11 that fall, you have been convicted.

12 A. Huh?

13 Q. You have been convicted of a crime.

14 A. I have been convicted of a crime?

15 Q. Yes.

16 A. No.

17 Q. Never?

18 A. No.

19 Q. Has that other Mr. Nelson been convicted  
20 for you?

21 A. No.

22 MR. CARROLL: Nothing further,  
23 Your Honor.

24 THE COURT: Redirect, Solicitor?

25 SOLICITOR WILSON: No, sir.

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

3500

1 THE COURT: You may come down, Mr.  
2 Nelson.

3 (WITNESS STEPS DOWN)

4 THE COURT: Call your next witness.

5 SOLICITOR WILSON: Rashid Malik.

6 (WITNESS TAKES STAND)

7 RASHID MALIK, being duly sworn to tell  
8 the truth, the whole truth and nothing but the  
9 truth, testified, as follows:

10 DIRECT EXAMINATION

11 BY SOLICITOR WILSON:

12 Q. Mr. Malik, you also go by "Popcorn". Is  
13 that right?

14 A. Yes, ma'am.

15 Q. And before you changed your name to Rashid  
16 Malik, your name was Derek Jenkins.

17 A. Yes, ma'am.

18 Q. How old were you when you changed your  
19 name?

20 A. I believe I was eighteen.

21 Q. Let's go back to your relationship with  
22 William O. Dickerson. You testified before this  
23 jury a week or so ago. Is that right?

24 A. Yes, ma'am.

25 Q. And I believe you mentioned that you and



1 Will had been lifelong friends. Is that right?

2 A. Yes, ma'am.

3 Q. Where was it that you'all got to know each  
4 other? What area of town?

5 A. Around the Spring Street area.

6 Q. Did you have family in that area at the  
7 time?

8 A. Yes, ma'am.

9 Q. But you lived in North Charleston?

10 A. Yes, ma'am.

11 Q. So would you come downtown on occasion to  
12 visit your family and see friends?

13 A. Yes, ma'am, every day or every other day.

14 Q. And is that when you got to know William  
15 Dickerson?

16 A. Yes, ma'am.

17 Q. Were you'all pretty close?

18 A. Yes, ma'am.

19 Q. Let's go to November of 1993.

20 Specifically, do you recall being involved in  
21 an armed robbery on Hester Park on November 5<sup>th</sup>  
22 of 1993?

23 A. Yes, ma'am.

24 Q. Tell the jury how it was that you became  
25 involved in this armed robbery.

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.

3502

1 A. William Dickerson and I and another guy --

2 -

3 Q. Who's the other guy?

4 A. Antonio Nelson. We agreed to go to Hester  
5 Park and rob some young guys who were selling  
6 crack at the time.

7 Q. Did you have a gun?

8 A. No, ma'am.

9 Q. Who had a gun?

10 A. William Dickerson and Antonio Nelson had a  
11 gun. I was just supposed to be the guy to grab  
12 the money out of the guys' pockets while they  
13 were holding guns on the guys.

14 Q. What happened when you got down there?  
15 Did you see some potential targets?

16 A. Yes, ma'am.

17 Q. How many of them did you see?

18 A. At least ten guys were out there on the  
19 Park that night. We walked out and we were  
20 supposed to put on our masks and everything.  
21 But I believe William knocked a guy with the  
22 gun he had. has a .22 and, uh, ---

23 Q. You were talking about your masks. You  
24 were supposed to have on a mask?

25 A. Yes, but we didn't have time to put the

1 masks on.

2 Q. What happened when you got out there? You  
3 said you were supposed to check the pockets?

4 A. Yes.

5 Q. And the other two were going to hold the  
6 guns. Is that how it unfolded?

7 A. Yes, ma'am. William, he ended up knocking  
8 a guy.

9 Q. With what?

10 A. With a gun.

11 Q. Where?

12 A. In his face. And Antonio started to pull  
13 the trigger, for no apparent reason his gun  
14 grabbed. William let off a couple of shots.

15 Q. So Antonio's gun didn't fire?

16 A. No.

17 Q. After he did that, what did William do?

18 A. He fired his gun in he air.

19 Q. Did any of the victims shoot at you'all?

20 A. No, ma'am. I believe that William fired  
21 his gun in the air because Tony's gun grabbed.  
22 And I guess he just wanted the guys to know  
23 that we meant business and we had fire power.  
24 I picked a few pockets. We all picked a few  
25 pockets and we ran and we left.

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.

3504

1 Q. Did you'all get any money?

2 A. A couple of bucks, a couple of chains and  
3 all.

4 Q. Who got the chains?

5 A. I believe we all got chains. We didn't  
6 get over a hundred dollars. The next night I  
7 believe I got arrested, or maybe a couple of  
8 days later.

9 Q. Did you end up pleading guilty?

10 A. Yes, ma'am.

11 Q. Did you go to prison?

12 A. Yes, ma'am.

13 Q. How about Will? Did he end up pleading  
14 guilty?

15 A. Yes.

16 Q. And Antonio never got charged. Is that  
17 right?

18 A. (Negative gesture), no.

19 Q. Did you cooperate with the police back  
20 then and tell them who was involved?

21 A. Yes, ma'am.

22 SOLICITOR WILSON: That's all,  
23 Your Honor.

24 THE COURT: Cross-examine?

25 MR. CARROLL: Thank you, Your

1 Honor.

2 CROSS EXAMINATION

3 BY MR. CARROLL:

4 Q. Antonio Nelson had a gun that night?

5 A. Yes, sir.

6 Q. And he was out there with you'all to rob  
7 drug dealers?

8 A. Yes, sir.

9 Q. And he attempted to fire his weapon and it  
10 clicked and wouldn't fire?

11 A. Yes.

12 Q. The business you ran back then was jacking  
13 drug dealers; right?

14 A. Yes.

15 Q. You'all left businesses and so forth  
16 alone. I think that's what you told the  
17 police, right?

18 A. Right.

19 Q. Just drug dealers?

20 A. Right.

21 Q. Do you recall when you were initially  
22 confronted by the police that you were at your  
23 aunt's house?

24 A. Yes.

25 Q. But you had been involved?

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.

3506

1 A. Yes, sir.

2 MR. CARROLL: Nothing further, Your  
3 Honor.

4 THE COURT: Redirect.

5 REDIRECT EXAMINATION

6 BY SOLICITOR WILSON:

7 Q. Who was in this business of jacking drug  
8 dealers with you?

9 A. William Nelson and ---

10 Q. William who?

11 A. William Dickerson and Antonio Nelson.

12 SOLICITOR WILSON: That's all.

13 THE COURT: Recross?

14 MR. CARROLL: Nothing further,  
15 Your Honor.

16 THE COURT: You may come down, Mr.  
17 Malik.

18 (WITNESS STEPS DOWN)

19 THE COURT: Call your next witness.

20 BRUCE DURANT: John Scarborough.

21 (WITNESS TAKES STAND)

22 JOHN SCARBOROUGH, being duly sworn to  
23 tell the truth, the whole truth and nothing but  
24 the truth, testified, as follows:

25 DIRECT EXAMINATION

1 BY BRUCE DURANT:

2 Q. Would you tell the jury where you work,

3 Mr. Scarborough?

4 A. I work for the Charleston County Sheriff's

5 Office.

6 Q. What do you do at the Charleston County

7 Sheriff's Office?

8 A. I'm a lieutenant over the traffic

9 division, school crossing guards, animal

10 control unit and also the dive team, the

11 underwater recovery team.

12 Q. How long have you been with the Sheriff's

13 Office?

14 A. Eleven years.

15 Q. Before being with the Sheriff's Office

16 where were you?

17 A. I worked with the City of Charleston

18 Police Department for thirteen years.

19 Q. Is that where you were working on May the

20 17<sup>th</sup> of 1996?

21 A. Yes, sir.

22 Q. What were you doing at the City Police

23 Department on that time -- on that day?

24 A. During that span I was assigned to the

25 foot patrol unit with three other guys and a

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.

3508

1 supervisor.

2 Q. That afternoon at approximately 3:00 p.m.  
3 did you have the occasion to become involved in  
4 an incident involving the Defendant, William  
5 Dickerson?

6 A. Yes, I did.

7 Q. Why were you'all looking for Mr. Dickerson  
8 that day?

9 A. Mr. Dickerson was wanted on some  
10 outstanding warrants for armed robbery, ---

11 MR. BLOOM: Objection, Your Honor.

12 THE COURT: Sustained.

13 DIRECT EXAMINATION CONTINUED

14 BY BRUCE DURANT:

15 Q. We don't need to know -- just had  
16 warrants. Is that correct?

17 A. Yes, there were warrants.

18 Q. Had you received any information regarding  
19 his whereabouts?

20 A. Yes, sir.

21 Q. What information did you receive?

22 A. Myself and my partners had received  
23 information from the dispatch that was actually  
24 toned out, which means an emergency call, in  
25 reference to Mr. Dickerson being at an



1 apartment located off of Spring Street.

2 Q. Did you'all proceed to that location?

3 A. Yes, sir, we did.

4 Q. How did you get there?

5 A. I was driving and my three partners were  
6 with me, we were in a marked City of Charleston  
7 Police car.

8 Q. And who were the three people who were  
9 with you?

10 A. Ricky Russell, Carlos Cestedes and Gerald  
11 Schratt.

12 Q. And what did you do when you go to -- do  
13 you recall what the address was on Spring  
14 Street? I know it's been a long time ago.

15 A. No, sir. It was an apartment.

16 Q. What did you do when you got to that  
17 address on Spring Street?

18 A. We were in a marked car, so we parked down  
19 the road a little bit. We exited the vehicle.  
20 We walked in to that location.

21 Q. Did you check the residence, the apartment  
22 that you had information that the Defendant was  
23 at?

24 A. Yes, sir.

25 Q. What was the results of that?

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

3510

1 A. The results, we knocked on the door, we  
2 checked all the windows, everything around the  
3 residence and everything was secure. All the  
4 blinds were shut and we couldn't see anything  
5 or hear anything around the residence.

6 Q. What did you'all do then?

7 A. We then notified our dispatch that we were  
8 unable to make contact with him and we started  
9 to fan out, going back toward the east side and  
10 ---

11 Q. Were you'all able to locate him in any of  
12 the surrounding businesses?

13 A. No, sir. We canvassed the area for quite  
14 a while and were unable to locate him.

15 Q. What did you'all do then?

16 A. We then -- I went back and got the patrol  
17 car and I went back to pick up my partners off  
18 of Spring Street in one of the small little  
19 clubs off right there off of Spring Street.

20 Q. And where did you go?

21 A. Where did we go?

22 Q. Yes.

23 A. Once I picked them up -- Spring Street is  
24 a one-way street. I picked them up and we went  
25 down towards Cummings. And as we proceeding

1 back down we were notified by then Corporal  
2 Riccio, who is now a lieutenant with the City of  
3 Charleston Police Department, that the suspect  
4 was fleeing on a bicycle headed in the opposite  
5 direction on Spring Street.

6 Q. Headed in y'all's direction?

7 A. Headed directly to us. He told us he was  
8 coming right at us.

9 Q. What happened then?

10 A. We observed the suspect on a bicycle  
11 coming towards us, at which time I ---

12 Q. What suspect?

13 A. The gentleman sitting right here.

14 Q. Mr. Dickerson, seated at the table here?

15 A. Yes, sir, minus the beard.

16 Q. Tell us what happened.

17 A. The suspect came towards us. He began to  
18 angle across the roadway. He was wanted -- I  
19 know what he was wanted for, but I can't go  
20 into that detail, but he was considered  
21 dangerous to us. At the time I was driving the  
22 vehicle and I attempted to pull my vehicle in  
23 front of him, at which time he made contact  
24 with the front of my police car. He came off  
25 of the bicycle, at which time my partner in the

1 passenger seat, which was Carlos Cestedes,  
2 exited the cruiser.

3 Q. What happened when Officer Cestedes exited  
4 the cruiser?

5 A. Officer Cestedes exited the cruiser and  
6 attempted to tackle the suspect around the  
7 waist, like a football tackle, was attempting  
8 to take his legs out from under him and tackle  
9 him.

10 Q. And what happened then?

11 A. The gentlemen -- I use that term loosely  
12 -- picked out, he pulled a gun from his  
13 waistband and put it up to my partner's head.

14 Q. Did he present the firearm toward anyone  
15 else?

16 A. Well, he put it up to his head and we  
17 yelled "55" -- which means gun. Carlos was  
18 unable to see him because Carlos had his head  
19 down. Carlos, when he heard us yell "55" he  
20 pushed him away, at which time we had our guns  
21 drawn, our duty weapons. We were in full  
22 uniform. The suspect then, as he pushed him  
23 away, then in fact brandished the gun at us and  
24 we didn't have a clear shot at him at that time  
25 because Cestedes was still in front of him.

1 Q. What did Mr. Dickerson do at that time?

2 A. Mr. Dickerson attempted to flee down  
3 Spring Street in the opposite direction. He  
4 was running on the left-hand side of the road.  
5 He was running back toward -- just to use a  
6 reference point -- towards King Street and that  
7 area. We gave foot pursuit, myself and  
8 Schratt. I didn't know at the time where my  
9 other partners were at, I didn't know if Carlos  
10 was still down or what. I really didn't know  
11 what his status was, if he had been shot, but  
12 we were after Dickerson.

13 Q. Where did you'all chase Mr. Dickerson?

14 A. Chased Mr. Dickerson the opposite way on  
15 the left-hand side. He made some maneuvers  
16 around fences and what-not. Being that he  
17 still had a gun in his hand. We were trying to  
18 keep our distance. We were yelling at him the  
19 whole time, "drop the gun." He suddenly came  
20 back out on the sidewalk still running. He  
21 eventually crossed over Spring Street and  
22 attempted to run between two houses. We gave  
23 chase still. When he ran up between the two  
24 houses he attempted to point the gun and his  
25 arm, in sort of this motion (demonstrating) and

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

3514

1 attempted to bounce himself over a rather high  
2 privacy fence; at which time his midsection  
3 made contact with the top of the fence and the  
4 fence came collapsing down with him laying on  
5 the other side of the fence in the backyard of  
6 a residence.

7 Q. Was it a fenced-in back yard?

8 A. Yes, it was.

9 Q. What happened after he came down --  
10 knocked the fence down and was in the back  
11 yard?

12 A. He came down and myself and Schratt came  
13 running up and were in a position with our  
14 firearms still out. He came up and he was kind  
15 of dazed from falling over. He immediately  
16 turned the gun on us, pointed his weapon at us  
17 and we opened fire on him.

18 Q. Who opened fire on him?

19 A. Myself and Schratt.

20 Q. And what happened then?

21 A. He was struck. We didn't know where but  
22 he was struck and went down. As he went down,  
23 our protocol is to approach a suspect with  
24 caution. The gun fell very close to him. We  
25 weren't sure if he was out or not, at which

1 time we went up to him and we handcuffed the  
2 suspect.

3 Q. Did he continue to resist in any way?

4 A. The suspect at that time -- I don't know  
5 if he was playing possum or what he was doing,  
6 but he acted as if he was unconscious. We  
7 attempted to -- once we got one handcuffs on  
8 him he began to flail around and he noticed  
9 that there was a crowd coming up behind us, of  
10 the neighborhood people that lived in that  
11 neighborhood. And he started using -- I don't  
12 know if you want me to use profanity but I can  
13 tell you exactly what he said.

14 Q. You don't need to do that.

15 A. He began to yell at the crowd, a lot of  
16 profanity, trying to get them to come and get  
17 us and attack us, the police officers that were  
18 there, to get him away from us so that he could  
19 flee again.

20 Q. How many times was he shot? Do you know?

21 A. At the time I was not sure. The protocol  
22 of the agency is once a suspect is shot and  
23 other units have gotten there to secure him and  
24 take him to a patrol car, take him to  
25 headquarters for debriefing.

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.

3516

1 Q. Did you find out later how many times he'd  
2 been shot?

3 A. I learned later on he was struck twice,  
4 once in the chest and once in the side of the  
5 face. It came down the side of his face and  
6 struck his ear.

7 Q. Do you know where your partner, Mr.  
8 Russell is today, Ricky Russell?

9 A. Mr. Russell is a DEA Agent with the  
10 federal government stationed in Charlotte,  
11 North Carolina, the last time I talked to him.

12 Q. How about Darrell Schratt, do you know  
13 where he is?

14 A. Darrell Schratt works for Blackwater and  
15 he's over in Afghanistan.

16 BRUCE DURANT: Court's indulgence.

17 THE COURT: Certainly.

18 DIRECT EXAMINATION CONTINUED

19 BY BRUCE DURANT:

20 Q. Would you please answer any questions the  
21 defense has for you.

22 A. Yes, sir.

23 THE COURT: You may cross examine.

24 MR. CARROLL: May it please the  
25 Court, Your Honor.



1 CROSS EXAMINATION

2 BY MR. CARROLL:

3 Q. Lieutenant Scarborough, that day when now  
4 Corporal Ricio locates Mr. Dickerson, Mr.  
5 Dickerson's immediate reaction was to run?

6 A. He was on a bicycle, sir.

7 Q. But he jumped on a bicycle and took off, I  
8 believe you said going -- I guess what we might  
9 say the wrong way on Spring Street?

10 A. Exactly. I don't know if he observed him  
11 getting on the bicycle or if he saw him coming  
12 toward him on a bicycle.

13 Q. Then Corporal Ricio got on the radio and  
14 said, "I've found him. He's on a bike headed  
15 up Spring Street." Correct?

16 A. Correct.

17 Q. And you and those in your marked police  
18 cruiser were on Spring Street heading with the  
19 flow of traffic, which would have been opposite  
20 him?

21 A. Yes, sir.

22 Q. And the bike and the car collided?

23 A. Yes, sir.

24 Q. And when the bike and the car collided, as  
25 is always the case, the guy on the bike lost

1 and hits the ground; correct?

2 A. I don't know if it's always the case but  
3 yes, sir.

4 Q. He was on a bicycle?

5 A. Yes, sir.

6 Q. And you'all were in a police car.

7 A. Yes, sir.

8 Q. And do you recall getting information to  
9 indicate that some folks described this as a  
10 gun falling out of his pants when he hit the  
11 ground?

12 A. No, sir.

13 Q. And once he jumped up he started running  
14 again; correct?

15 A. He was apprehended rather quickly by  
16 Cestedes.

17 Q. I believe you testified a moment ago you  
18 didn't know whether Officer Cestedes had been  
19 shot or not?

20 A. Yes, sir.

21 Q. You didn't hear a gunshot; did you?

22 A. No, sir. But I saw his motions at the  
23 time, and his motions were exactly to put the  
24 gun up to his head and pulled it just as if to  
25 pull the trigger on a gun. Whether or not that

1 gun fired or not, at the time I did not know.

2 Now I do.

3 Q. And, in fact, he was not shot?

4 Thankfully.

5 A. No, sir.

6 Q. And he continued to run away until he ran  
7 into this fence and tried to clear it and ended  
8 up on the ground?

9 A. Yes, sir.

10 Q. I thought I understood you to say that he  
11 was hit I the chest and in the ear. Isn't it  
12 true that there was a grazing blow on his  
13 shoulder?

14 A. Sir, I don't have anything to do with  
15 forensics. Like I said, I was not there. I  
16 was just going by what I was told.

17 Q. But these turned out not to be life-  
18 threatening injuries; correct?

19 A. By his actions, definitely. They were not  
20 life-threatening by the way he was acting.

21 Q. I'm talking about ultimately. The police  
22 arrested him and took him to jail.

23 A. Eventually, yes, sir. After he was in the  
24 hospital, I guess.

25 Q. Just briefly, correct?

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.

3520

1 A. I have no knowledge of that.

2 Q. Fair enough. I suppose as part of any  
3 investigation involving the discharge of a  
4 police weapon there was lots of statements  
5 taken?

6 A. Yes, sir.

7 Q. And you, in fact, gave your statement as a  
8 part of that investigation?

9 A. Yes, sir.

10 Q. And that's a standard part of that kind of  
11 thing, to explain why you fired your weapon.

12 A. I never fired my weapon until then, but  
13 yes, sir.

14 Q. When you gave that statement that day you  
15 gave a full and complete account as you  
16 recalled; correct?

17 A. To the best of my knowledge, yes, sir.

18 Q. And here today you've testified about him  
19 yelling at a crowd to "get the police." You  
20 didn't include that in your statement, did you?

21 A. I'm not sure, sir. I don't have it in  
22 front of me.

23 Q. I'm going to hand you what's being marked  
24 as ---

25 COURT REPORTER: Defendant's Exhibit

1 Number 15.

2 (SO ENTERED AS DEFENDANT'S EXHIBIT 15)

3 CROSS EXAMINATION CONTINUED

4 BY MR. CARROLL:

5 Q. Lieutenant, I'd simply like for you to  
6 read that over and tell me if that refreshes  
7 your recollection.

8 A. (Upon review) -- okay.

9 Q. My question was back when you provided  
10 that statement the account about yelling to the  
11 crowd to get the police was not included; was  
12 it?

13 A. If that statement is not included, I  
14 cannot tell you that it was not included in  
15 another report or something of that nature.  
16 But I can assure you that is what transpired.  
17 It does state in here -- if I may.

18 Q. Certainly.

19 A. It does say in here that he was resisting.  
20 Whey I didn't go into detail, I -- I assure you  
21 that this was one of the biggest events of my  
22 career. I'm sure in this report, when I did  
23 this, I was under a lot of duress, sir.

24 Q. I'm certain you were. And you were also  
25 closer in time to the event that day than you

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

3522

1 are now; right?

2 A. Yes, sir, if you want to say it that way.

3 Yes, sir.

4 MR. CARROLL: I don't have any further  
5 questions.

6 THE COURT: Redirect?

7 BRUCE DURANT: No, sir.

8 THE COURT: You may come down Mr.  
9 Scarborough.

10 THE WITNESS: Thank you, sir.

11 BRUCE DURANT: I would ask that Lt.  
12 Scarborough be excused, Your Honor

13 MR. CARROLL: No objection.

14 THE COURT: You are also free to  
15 leave.

16 THE WITNESS: Thank you.

17 THE COURT: Yes, sir.

18 (WITNESS STEPS DOWN)

19 BRUCE DURANT: The state would call  
20 Carlos Cestedes.

21 (WITNESS TAKES STAND)

22 CARLOS CESPEDES, being duly sworn to  
23 tell the truth, the whole truth and nothing but  
24 the truth, testified, as follows:

25 DIRECT EXAMINATION

1 BY BRUCE DURANT:  
2 Q. Good morning, Mr. Cespedes. How are you?  
3 A. Good, sir.  
4 Q. Could you tell the jury what you do for a  
5 living?  
6 A. I'm currently employed with the Federal  
7 Air Marshal's Service.  
8 Q. How long have you been a Federal Air  
9 Marshal?  
10 A. From 2002 to the present.  
11 Q. And what did you do before you became an  
12 Air Marshal?  
13 A. I was employed with the Border Patrol.  
14 Q. Where were you with the Border Patrol?  
15 A. In a town called McCallum, Texas, south  
16 Texas.  
17 Q. And how long were you with the Border  
18 Patrol?  
19 A. From early '98 to early 2002.  
20 Q. And prior to that where were you employed  
21 in law enforcement?  
22 A. I was here in the fine City of Charleston.  
23 Q. With what agency?  
24 A. With the Charleston Police Department.  
25 Q. And is that where you were employed on May

1 the 17<sup>th</sup> of 1996?

2 A. I was.

3 Q. What were you doing at that time at the  
4 City Police Department? What was your job?

5 A. I was assigned to a four-man tactical unit  
6 under the foot patrol division.

7 Q. That afternoon at around 3:00 p.m. did you  
8 have the occasion to become involved in an  
9 incident regarding the defendant in this case,  
10 Mr. William Dickerson?

11 A. Yes, sir.

12 Q. And I believe you'all had outstanding  
13 warrants on him. Is that correct?

14 A. Yes, if I remember correctly, we had ---

15 Q. We don't need to know what they are, just  
16 that you had outstanding warrants?

17 A. Yes.

18 Q. And did you'all receive information  
19 concerning his potential whereabouts that day?

20 A. Yes.

21 Q. And where was that?

22 A. 115-B Spring Street.

23 Q. How did you all get to that location?

24 A. Again, we were in a marked unit, and we  
25 parked slightly down the block.



1 Q. And what did you'all do upon arriving at  
2 the address of 115-B Spring Street?

3 A. About five officers showed up and we set a  
4 small perimeter around the apartment complex.

5 Q. And what happened then?

6 A. It was only an arrest warrant so we  
7 couldn't make entry. We knocked, tried to  
8 cover all the exits and basically tried to make  
9 contact with the suspect. No answer.

10 Q. And there was no response at 115-B Spring?

11 A. No.

12 Q. What did you'all do at that time?

13 A. There's a few businesses around the area.  
14 We tried to see if maybe he was in the area.  
15 There's a small bar across the street, a  
16 restaurant, a convenience store, a laundrymat.  
17 We made a search of the area.

18 Q. Who were your partners at that time on  
19 this four-man squad?

20 A. It was Officer Scarborough, Officer  
21 Schratt and Officer Russell.

22 Q. And yourself?

23 A. Yes, sir. Officer Ricio also was  
24 involved.

25 Q. What happened after you'all were unable to

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

3526

1 locate him in any of these surrounding  
2 businesses?

3 A. Again, we looked around the area. Officer  
4 Scarborough parked the vehicle a good block  
5 away. He'd retrieved the vehicle and was  
6 coming to pick us up.

7 Q. And what happened after he picked up the  
8 three of you'all?

9 A. Right around the time he was picking us up  
10 Officer Ricio was in another vehicle, it came  
11 over the radio that the suspect was back on the  
12 scene and he was heading our way.

13 Q. What was his mode of transportation?

14 A. Apparently, Officer Ricio had passed the  
15 actual premises and observed him exiting the  
16 area on a bicycle.

17 Q. And he was headed in you'all's direction?

18 A. Yes. We were headed east on Spring  
19 Street, a one-way street, and he was coming the  
20 opposite direction.

21 Q. What happened then?

22 A. He literally collided with the vehicle.

23 Q. Tell us about that. Who is "he?"

24 A. The suspect, Mr. Dickerson.

25 Q. Do you see him in the courtroom today?

1 A. I do.

2 Q. And would you point him out to the jury?

3 A. The gentleman on the far side of the  
4 table.

5 Q. The one with the beard?

6 A. Yes, sir.

7 Q. So he collided?

8 A. Officer Scarborough was driving and trying  
9 to cut him off and they then collided.

10 Q. What happened after the car and the  
11 bicycle collided?

12 A. I was in the rear right passenger's side  
13 with the door already halfway open. I was the  
14 first one out of the vehicle. He bounced off  
15 the front portion of the vehicle when he came  
16 off his bicycle. He kind of hopped along like  
17 either trying to get away on the bicycle or run  
18 and hop off the bike. And I caught him in that  
19 motion basically.

20 Q. How did you -- were you able to put your  
21 hands on him?

22 A. Yes, sir. I went to tackle him and was in  
23 an awkward position because the bicycle was in  
24 between. So I went to tackle him and got hands  
25 on him around his waist area, but he backed off

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.

3528

1 a little bit. As he backed off he angled the  
2 bicycle essentially in a sideways position,  
3 which extended me further out. At that angle  
4 I got lower and my positioning was getting  
5 lower on his body. I didn't have a good hold  
6 on him. Do you want me to keep going?

7 Q. Sure. Just tell us what happened.

8 A. As he was going to back away he pulled out  
9 a firearm from his right side, from his  
10 waistband or a front right pocket. I really  
11 couldn't tell you exactly where he pulled it  
12 out from.

13 Q. What did that firearm look like?

14 A. It was an automatic.

15 Q. I hand you what's previously been marked  
16 as State's Exhibit Number 145 for  
17 identification and ask you if that appears to  
18 be the weapon that he had?

19 A. Yes, sir.

20 Q. What happened when he pulled out this  
21 weapon?

22 A. Again, being at the angle I was in --  
23 normally, I would like to sandwich the handgun  
24 to his body so he wouldn't be able to pull it  
25 out or do any damage with it. But at the angle

1 I was in, I was totally off balance and I had  
2 to let go of him. When I did, he continued  
3 with the extension of the weapon and he had it  
4 right to my head, something like two inches  
5 from my face.

6 Q. What happened then?

7 A. He pulled the trigger, I heard it click.  
8 It didn't fire, obviously. I saw the  
9 anticipation of the shot, basically, the hand  
10 jerk forward and -- I knew that he was going to  
11 fire that weapon. I let go of him complete,  
12 fell basically on my butt and aimed it on him.  
13 I heard "gun, gun, gun" from the rest of the  
14 police officers. You can tell there was a lot  
15 of going on, there was a traffic, this was a --  
16 -

17 Q. In a very short period of time.

18 A. Two seconds max. Two or three seconds  
19 max. But I heard the officers behind me  
20 calling out "weapons, weapons" -- alerting each  
21 other, their weapons were out. After he  
22 clicked on me, he pointed up to the other  
23 officers who were probably eight to ten feet  
24 away. They were out of the vehicle but I don't  
25 know if they were already moving forward, they

1     were behind me. So basically I'm in the line  
2     of fire at that point. I dropped down and his  
3     hand goes up at the office officers, then took  
4     off running at that point.

5     Q.   Who did?

6     A.   The suspect.

7     Q.   And where did he run?

8     A.   He ran in the opposite -- ran across the  
9     street, opposite the traffic, kind of at an  
10    angle, and ended up in the yard of 101 Spring  
11    Street, a long driveway-type of yard.

12    Q.   Were you in pursuit at that time?

13    A.   Yes.

14    Q.   Who was ahead of you?

15    A.   I would say Schratt and Scarborough were  
16    ahead of me. I was the third to -- I'd got up  
17    pretty quick.

18    Q.   What happened at

19    A.   A                                   at the far end of  
20    the yard or driveway is a fence about four to  
21    five feet tall, a wooden fence. Mr. Dickerson  
22    attempted to go over it, he essentially  
23    collapsed it by the weight of his body, the  
24    fence. So we couldn't just jump it right after  
25    him. It now became an obstacle for us. He

1     went over that fence and realized he didn't  
2     have anywhere else to go because the whole yard  
3     beyond that fence was also fenced off.

4     Q.    Right.

5     A.    When we got to the fence he then turned  
6     around and basically pointed his weapon at us.  
7     We told him "drop the weapon, drop the weapon."  
8     He brought it up to an aiming point and Officer  
9     Scarborough and Officer Schratt fired off two  
10    rounds, one round each.

11    Q.    One round each?

12    A.    Yes, sir.

13    Q.    And what happened? Did you shoot?

14    A.    I did not. No, I was aimed in but I kind  
15    of had cover, I was safe at the time so I  
16    didn't shoot.

17    Q.    What happened after Officers Scarborough  
18    and Schratt shot?

19    A.    I thought he took a shot. He dropped. I  
20    couldn't see where it actually struck him, but  
21    it knocked him out completely and later I was  
22    told he'd hit him somewhere on the side of his  
23    head. When the shot went out he definitely  
24    dropped that quick.

25    Q.    What happened after that?

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

3532

1 A. I was the first one over the fence at that  
2 point, and I just remained aimed in on him. I  
3 thought he was dead or injured or what-have-  
4 you. The body was in a funny position where he  
5 had his arms kind of back in this fashion, and  
6 the firearm was still close. So when I went up  
7 to the defendant, I wanted to secure the  
8 weapon. Before I got the weapon he started  
9 squirming around again.

10 Q. What do you mean, "squirming around?"

11 A. He started moving around. He wasn't  
12 completely compliant at the time. I said,  
13 "don't move, don't move," and as we struggled  
14 to handcuff. I handcuffed him and we secured  
15 the weapon at that point.

16 Q. I believe he ended up having been shot  
17 twice. Is that correct?

18 A. Right.

19 BRUCE DURANT: Court's indulgence.

20 THE COURT: Certainly.

21 DIRECT EXAMINATION CONTINUED

22 BY BRUCE DURANT:

23 Q. Please answer any questions Mr. Carroll  
24 may have for you.

25 A. Yes, sir.



1 THE COURT: You may cross-examine.

2 MR. CARROLL: May it please the Court,  
3 Your Honor.

4 CROSS EXAMINATION

5 BY MR. CARROLL:

6 Q. Officer Cestedes, when Officer Ricio made  
7 you aware that he had found Mr. Dickerson, Mr.  
8 Dickerson was at that point on a bicycle riding  
9 the wrong way up Spring Street?

10 A. That's correct. Yes, sir.

11 Q. And you and Officer Scarborough and others  
12 were in a cruiser coming down Spring Street  
13 with the flow of traffic?

14 A. Correct.

15 Q. And the bicycle and the police car  
16 collided?

17 A. Yes, sir.

18 Q. And did I understand you correctly to say  
19 that it didn't knock him off the bike?

20 A. He kind of bounced off the vehicle and was  
21 still kind of halfway on the bike.

22 Q. Do you remember hearing anything of  
23 reports that he had fallen down and a gun  
24 dropped out of his waistband?

25 A. No.

- 1 Q. After the collision he continued on  
2 running; correct?
- 3 A. After the collision?
- 4 Q. Yes.
- 5 A. After brandishing the weapon, yes.
- 6 Q. Here today you told us about a component  
7 of this story that's not been mentioned  
8 previously. And that is that you heard a  
9 click.
- 10 A. (Affirmative nod).
- 11 Q. Now, back in 1996 there was a pretty  
12 thorough investigation of this incident;  
13 correct?
- 14 A. (No verbal response).
- 15 Q. A thorough investigation?
- 16 A. Yes, sir. But I wasn't a part of the  
17 investigation. I wrote my report, or my  
18 particular portion of the narrative.
- 19 Q. All right. There were multiple officers  
20 involved because, number one, it's serious when  
21 any suspect has a gun; correct?
- 22 A. Correct.
- 23 Q. It's serious when a suspect points a gun.
- 24 A. Correct.
- 25 Q. It's serious when a suspects flees when

1     you're trying to apprehend him, and it's really  
2     serious when anybody attempts to shoot a police  
3     officer; correct?

4     A.    Correct.

5     Q.    And so when the investigation was ongoing  
6     is it fair to say that two things were being  
7     looked at? One, the use of force by the  
8     officers involved, is that correct?

9     A.    That's correct.

10    Q.    And, number two, the allegations related  
11    to what Mr. Dickerson was charged with as a  
12    result of this, resisting arrest with a deadly  
13    weapon and I guess assault-with-intent-to-kill.

14    A.    Yes, sir.

15    Q.    So when you sat down to write your  
16    statement, you included the part about looking  
17    for Mr. Dickerson. Is that fair to say?

18    A.    Yes, sir.

19    Q.    And you included the part about Corporal  
20    Ricio seeing him being to ride his bike on  
21    Spring Street; correct?

22    A.    Yes, sir.

23    Q.    And you included the part about the car  
24    and the bicycle colliding; correct?

25    A.    Yes, sir.

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

3536

1 Q. And you included the part about seeing Mr.

2 Dickerson with a handgun; correct?

3 A. Yes, sir.

4 Q. However, you did not include anything  
5 whatsoever about hearing a gun click. Is that  
6 true?

7 A. That's correct, sir.

8 Q. Mr. Dickerson continued to run until he  
9 was shot by Officers Scarborough and Schratt;  
10 correct?

11 A. Correct.

12 Q. And he fell down in the yard and that  
13 ended the pursuit. Are you aware that the  
14 bullets basically grazed one ear and one  
15 shoulder?

16 A. Yes.

17 Q. They weren't life-threatening injuries,  
18 but nevertheless they knocked him down and he  
19 was thereafter apprehended; right?

20 A. Correct.

21 Q. And subsequently plead guilty to his  
22 conduct in this case, is that right? Are you  
23 aware of that?

24 A. Yes, sir.

25 THE COURT: Redirect?

1 BRUCE DURANT: No, sir.

2 THE COURT: Thank you, sir. You may  
3 come down.

4 BRUCE DURANT: I would ask that the  
5 witness be excused.

6 THE COURT: Any objection to the  
7 witness being excused, Mr. Carroll?

8 MR. CARROLL: None, Your Honor.

9 THE COURT: You are also free to  
10 leave, sir.

11 (WITNESS STEPS DOWN)

12 BRUCE DURANT: The State would  
13 call Jeff Miller. May we approach?

14 THE COURT: Sure.

15 (BENCH CONFERENCE)

16 (WITNESS TAKES STAND)

17 JEFFREY MILLER, being duly sworn to  
18 tell the truth, the whole truth and nothing but  
19 the truth, testified, as follows:

20 DIRECT EXAMINATION

21 BY BRUCE DURANT:

22 Q. Good afternoon, Mr. Miller. How are you  
23 today?

24 A. Good.

25 Q. I believe you've already been introduced

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.

3538

1 to our jury, but please refresh their memory as  
2 to what you do for a living.

3 A. I'm a crime scene tech with the City of  
4 Charleston, and I've been with the police since  
5 1985.

6 Q. And in that capacity did you have the  
7 occasion to respond to 101 Spring Street on May  
8 17<sup>th</sup> of 1996 in reference to a shooting  
9 involving some police officers and the  
10 Defendant, William Dickerson?

11 A. Yes, I did.

12 Q. What did you do at the scene?

13 A. I responded to take photographs and  
14 collected the evidence that was lying on the  
15 ground.

16 Q. In that regard I hand you what's  
17 previously been marked as State's Exhibit  
18 Numbers 144 and 145 and ask if you recognize  
19 those photos?

20 A. Yes, I do.

21 Q. What are those photographs of?

22 A. They are two photographs showing the gun  
23 that I picked up off the ground.

24 Q. And that was at 101 Spring Street?

25 A. Yes, in the back yard.

1 Q. Does that fairly and accurately depict the  
2 weapon that you collected that day?

3 A. Yes, it does.

4 BRUCE DURANT: Your Honor, we  
5 would offer 144 and 145 into evidence, if there  
6 is no objection.

7 THE COURT: Any objection?

8 MR. CARROLL: No objection, Your  
9 Honor.

10 THE COURT: Without objection, 144  
11 and 145 are admitted, each being a photograph.

12 (SO ENTERED AS STATE'S EXHIBIT 144)

13 (SO ENTERED AS STATE'S EXHIBIT 145)

14 DIRECT EXAMINATION CONTINUED

15 BY BRUCE DURANT:

16 Q. So did you actually take that gun into  
17 evidence?

18 A. Yes, I did.

19 Q. It's not still in existence; is it?

20 A. I don't think so.

21 Q. I believe it was destroyed. Is that  
22 correct?

23 A. Yes, sir.

24 Q. Was that pistol identified as one being  
25 carried by the Defendant, William Dickerson?

- 1 A. Yes, sir.
- 2 Q. And what was the make of the pistol?
- 3 A. It was a Star nine millimeter.
- 4 Q. Did you record the serial number at the
- 5 time?
- 6 A. Yes. The serial number was 318320.
- 7 Q. And what did you do with that pistol after
- 8 taking it into evidence?
- 9 A. I transported it to the crime scene
- 10 office, and in doing so I unloaded the gun to
- 11 be sure it was safe.
- 12 Q. Tell us a little bit about that. What did
- 13 you have to do to unload the gun?
- 14 A. When I had the gun you could hear a
- 15 rattling sound inside, as if there was a loose
- 16 round between the top of the magazine and where
- 17 it chambers the round. There was a round
- 18 actually stuck in the barrel. I had to use a
- 19 dowel rod to push that round out.
- 20 Q. You mean it was stuck in the barrel?
- 21 A. When you pulled the slide back, the round
- 22 wouldn't come out.
- 23 Q. It would not extract?
- 24 A. Correct.
- 25 Q. And it wouldn't just shake out. You had



1 to push it out.

2 A. I had to use a dowel rod to push the round  
3 out.

4 Q. Is that normal?

5 A. No.

6 Q. Do you recall what type of ammunition the  
7 weapon was loaded with?

8 A. It had two different kinds of rounds. Six  
9 of the rounds were Ruger nine-millimeter RP,  
10 and then there were two Ruger nine-millimeter  
11 MRP.

12 Q. But all of them were nine-millimeter  
13 Ruger. Is that correct?

14 A. That's correct.

15 Q. What was done with the pistol and the  
16 ammunition after you completed your  
17 examination?

18 A. It was sealed up into a box and then  
19 turned into evidence.

20 Q. And then it went to SLED to be examined by  
21 Mr. Lawrence Gainey; is that correct?

22 A. Correct.

23 Q. Please answer any questions defense  
24 counsel may have for you.

25 MR. CARROLL: No questions, Your

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.

3542

1 Honor.

2 THE COURT: Thank you. You may step  
3 down, Mr. Miller. Do you wish the witness to  
4 be excused?

5 BRUCE DURANT: Yes, sir.

6 MR. CARROLL: No objection.

7 THE COURT: You are also free to  
8 leave, sir.

9 (WITNESS STEPS DOWN)

10 THE COURT: Ladies and gentlemen, at  
11 this point we'll take our recess for lunch.  
12 Please remember you are not to begin your  
13 deliberations. You are not at liberty to  
14 discuss the case among yourselves or with  
15 anyone. Have a good lunch. Please don't allow  
16 anyone to talk about the case in your presence.  
17 I'd ask you to return to the jury room by 2:00  
18 o'clock. Thank you.

19 (JURY OUT @ 12:31 P.M.)

20 THE COURT: Anything from the State  
21 before we recess?

22 SOLICITOR WILSON: Just for  
23 scheduling. Judge, we have five other witnesses  
24 for testimony. I have no idea how long it  
25 will take. I would ask that we break then and

1       then take up the issue of the autopsy  
2       photographs.

3                   And then I think tomorrow we'll have  
4       victim impact, which I think will be very short  
5       and the M.E., depending on the rulings, we'll  
6       be finished up tomorrow morning. But we may  
7       need a break earlier.

8                   We also just got the defense expert  
9       report, so we may need time to look at that as  
10      well.

11                  THE COURT:     That's fine. Thank you.  
12      I appreciate it. Anything else from the State  
13      before recessing at this point?

14                  BRUCE DURANT:     No, sir.

15                  THE COURT:     Anything from the  
16      defense?

17                  MR. BLOOM:     Court's indulgence.  
18      Judge, we would ask that the Court consider  
19      offering possibly a curative instruction. You  
20      ruled that the underlying arrest for armed  
21      robbery -- one witness, I believe Officer  
22      Scarborough, stated that and we objected and  
23      you sustained it. We would ask that the jury  
24      be instructed not to consider that underlying  
25      charge was dismissed:

1                   THE COURT:     I'm not going to tell  
2     them that the charge was dismissed. I'll tell  
3     them they can't consider it. If you want to  
4     call attention to it -- I sustained the  
5     objection. They've already been told that  
6     that's not an matter for their consideration.  
7     But if you want me to say, "I sustained the  
8     objection. You're to disregard anything he  
9     said regarding the question", I'll be happy to  
10    reiterate that. But I'm not going to tell them  
11    the charge was dismissed.

12                  MR. BLOOM:     All right. We don't  
13    need you to do that. Just to give a general  
14    charge that ---

15                  THE COURT:     I don't think there's  
16    any reason to give a curative instruction and  
17    say the charge is dismissed when there wasn't  
18    any testimony about it. So I decline to do  
19    that. I assume the State would -- I can't  
20    understand any reason to really give that,  
21    except -- frankly, it calls attention to it was  
22    well.

23                  BRUCE DURANT:   Exactly. It kind of  
24    puts it in the spotlight.

25                  THE COURT:     And I don't think that's

1 appropriate. Because then you really do -- if  
2 I start talking about it being dismissed, then  
3 I have to give the State an opportunity to talk  
4 about what was going on.

5 BRUCE DURANT: We'll be glad to  
6 put it in.

7 THE COURT: I'm sure you would. I  
8 don't think we need to go there. Thank you.

9 MR. BLOOM: Thank you, Your Honor.

10 THE COURT: But you want me to give  
11 that instruction?

12 MR. BLOOM: No, sir.

13 THE COURT: You're withdrawing the  
14 request for the instruction?

15 MR. BLOOM: That would be correct.

16 THE COURT: Thank you.

17 (LUNCH RECESS)

18 (DEFENDANT PRESENT)

19 THE COURT: Let the record reflect  
20 Mr. Dickerson is present. Mr. Bloom?

21 MR. BLOOM: May it please the Court,  
22 it's my understanding that the State intends to  
23 call a witness who it's my understanding was a  
24 parole hearing officer in 1996 who witnessed a  
25 statement the Defendant made at the parole

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.

3546

1 hearing. We would move not to allow such  
2 testimony for the same reasons we've set forth  
3 for other such witnesses. I won't repeat all  
4 that for Your Honor because Your Honor clearly  
5 knows that information.

6 It's also my understanding that at the  
7 parole hearing there was no *Miranda* warning  
8 giving, there was no right to have an attorney  
9 present. And so eliciting a statement at a  
10 parole hearing that's being used in this  
11 proceeding fourteen or fifteen years later, we  
12 feel, is irrelevant and more prejudicial than  
13 probative.

14 THE COURT: What's the State's  
15 position?

16 BRUCE DURANT: Your Honor, I think  
17 the statements made are very relevant to the  
18 character of the Defendant. It occurred at a  
19 parole hearing, his parole hearing, which  
20 occurred, I think in June of 1996 with the  
21 parole revocation for the strong armed robbery  
22 incident and assault of a high and aggravated  
23 nature that he received a youthful offender  
24 incarceration for.

25 At the time of the parole hearing he

1 had also been involved in the shooting incident  
2 with the police, and the hearing went into  
3 matters involving that. He stated repeated  
4 during the parole hearing that he wished he had  
5 killed the police officer. We think that is  
6 very relevant to the Defendant's character and  
7 characteristics, and we think it is something  
8 the jury should be allowed to hear in  
9 determining what sentence to impose in this  
10 case.

11 THE COURT: Okay. Why doesn't it go  
12 to the character of this defendant?

13 MR. BLOOM: Well, one, Your Honor, I  
14 think it gets far afield of the issues before  
15 the jury in terms of prior convictions and  
16 other matters. Secondly, even if Your Honor is  
17 at that threshold, there is, I think, a Fifth  
18 and Sixth Amendment violation here.

19 THE COURT: He was testifying under  
20 oath?

21 MR. BLOOM: I don't know if that's  
22 correct. I don't think at parole hearings  
23 they're often given *Miranda* warnings. They  
24 certainly don't have a right to counsel at a  
25 parole hearing. I know that's correct. And so

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

3548

1 to use a statement that was elicited at a  
2 hearing for one purpose and now use it at this  
3 point later for another purpose; I think that  
4 does bring in the Fifth and Sixth Amendment  
5 violations in terms of how the statement was  
6 elicited.

7 By way of example, let's say for  
8 example there's a case, Your Honor, that the  
9 Defendant had given a confession in this case.  
10 Which he hasn't. But let's assume he has  
11 and let's assume that in the trial phase that  
12 you had ruled the confession was a violation of  
13 his Fifth and Sixth Amendment rights.  
14 Certainly, Your Honor, then under the law you  
15 could not turn around and allow that confession  
16 to be used in this phase just to show the  
17 Defendant's nature. The Fifth and Sixth  
18 Amendment rights would attach. I think it's  
19 inadmissible. I think that's the same as with  
20 this statement as well.

21 Lastly, I would note that the parole  
22 hearing apparently may be tape recorded; the  
23 report indicates that, but we've never been  
24 provided with any tape recording of the  
25 hearing.



1 That would be all our grounds.

2 THE COURT: Anything else?

3 BRUCE DURANT: Nothing, Your..

4 Honor. I would -- with regard to the tape  
5 recordings, they just didn't keep them that  
6 long.

7 THE COURT: I wouldn't expect it to  
8 be.

9 (RECEIVED JURY NOTE)

10 COURT REPORTER: Court's Exhibit 27.

11 (SO ENTERED AS COURT'S EXHIBIT 27)

12 THE COURT: Do we have a nurse  
13 available? Do we have a medical person that  
14 can take blood pressure?

15 DEPUTY: We have a first responder.

16 THE COURT: Juror 234 feels the  
17 blood pressure is elevated, Mr. Page. So we'll  
18 wait a moment for his blood pressure to be  
19 taken.

20 Is the witness present?

21 BRUCE DURANT: Yes, Your Honor.

22 THE COURT: I think -- I mean, I  
23 just can't rule in a vacuum on this. I'd like  
24 to hear a preliminary ---

25 BRUCE DURANT: You want us to

1 proffer the testimony?

2 THE COURT: Let's do that. Since  
3 we're waiting on that and if the witness is  
4 present.

5 (WITNESS TAKES STAND)

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

9 PROFFER EXAMINATION

10 BY BRUCE DURANT:

11 Q. Good afternoon, Ms. Davis. Could you tell  
12 the judge where you're employed?

13 A. I'm currently employed with United States  
14 Probation in Columbia.

15 Q. How long?

16 A. Since June 1997.

17 Q. And what do you do for federal probation?

18 A. I'm a United States probation officer.

19 Q. And where did you work in 1996?

20 A. In 1996 I worked for State probation here  
21 in Charleston.

22 Q. And what did you do for State probation in  
23 Charleston in 1996?

24 A. I was an administrative hearing officer.

25 Q. And what does an administrative hearing

1 officer with State probation do?

2 A. An administrative hearing officer presides  
3 over violation hearing. If someone on  
4 probation or parole violates prior to going to  
5 court or prior to going before the parole  
6 board, they would have a hearing with the  
7 administrative officer. It would be determined  
8 whether they violated the conditions of  
9 supervision and either they could be continued  
10 under supervision at that time, conditions  
11 modified with the approval of the Court or the  
12 board, or the case would be remanded to Court  
13 or to the Parole Board for revocation action.

14 Q. And how long were you employed as an  
15 administrative hearing officer with State  
16 probation?

17 A. From November of 1994 until June 1997.

18 Q. In that capacity did you have the occasion  
19 to preside over a parole revocation hearing  
20 involving the Defendant, William Dickerson, on  
21 June the 4<sup>th</sup> of 1996?

22 A. Yes, I did.

23 Q. Where did that take place?

24 A. That hearing took place at the Charleston  
25 County Detention Center.

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.

3552

1 Q. And who all was present at that hearing?

2 A. In addition to myself, there was a parole  
3 officer and the parolee, William Dickerson.

4 Q. At that time were you aware that the  
5 Defendant -- at the time of the parole hearing,  
6 are you aware that the Defendant had been  
7 involved in an incident wherein he had been  
8 shot?

9 A. That did come out during the course of the  
10 hearing.

11 Q. And specifically what did Mr. Dickerson  
12 tell you regarding the incident where he was  
13 shot by the police officers?

14 A. He denied that he pointed the gun at the  
15 officers, but he did admit to being in  
16 possession of the gun and repeatedly during the  
17 course of the hearing he advised that he wished  
18 he had shot the officers.

19 BRUCE DURANT: That's pretty much  
20 the testimony.

21 THE COURT: Are you going to ask any  
22 questions?

23 CROSS EXAMINATION

24 BY MR. BLOOM:

25 Q. Ms. Davis, at the parole hearing he is not

1 given an appointed attorney if he's  
2 incarcerated such as he would be if he were in  
3 jail awaiting a hearing in General Sessions  
4 Court.

5 A. He is not appointed an attorney in the  
6 administrative hearing.

7 Q. And no Miranda warnings are given advising  
8 him that anything of things he says at the  
9 hearing?

10 A. I don't recall exactly the statement of  
11 rights that are given to a person who has  
12 violated. But they are advised that it is a  
13 matter of evidence, and that they have the  
14 right to an attorney at that hearing, and  
15 whatever they say can be used against them at a  
16 future hearing.

17 Q. He had the right to an attorney if he  
18 could afford to hire an attorney?

19 A. At that point, yes, sir.

20 Q. And, of course, at the time of this  
21 hearing he was incarcerated?

22 A. Correct.

23 Q. I believe you said they are told that  
24 anything they say could be used at a future  
25 parole hearing?

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.

3554

1 A. Correct.

2 Q. The Order of revocation in this case did  
3 not list any alleged statement by William  
4 Dickerson. Is that correct?

5 A. I did not prepare the order of revocation.  
6 I only prepared the findings from the  
7 administrative hearing.

8 Q. When you prepare the findings from an  
9 administrative hearing, where does that go, or  
10 a copy of that go?

11 A. A copy of it to parole agent and also a  
12 copy of the Parole Board.

13 Q. To the parole agent and the Parole Board,  
14 they get copies of that?

15 A. Yes.

16 Q. The person in front of the parole hearing,  
17 the parolee, does not get a copy of that?

18 A. No, he doesn't.

19 Q. So he would not have been aware of the  
20 particular findings of the allegations from  
21 that administrative hearing unless that came  
22 from the parole agent and the Parole Board?

23 A. I'm not sure if at the actual violation  
24 hearing if he has access to that.

25 Q. You would acknowledge that the order of

1 revocation does not contain this alleged  
2 statement by him that you testified to today.

3 A. Not the revocation order, no.

4 Q. Thank you, ma'am.

5 THE COURT: Anything further?

6 REDIRECT EXAMINATION

7 BY BRUCE DURANT:

8 Q. But you did prepare a summary of the  
9 administrative hearing as a result of this  
10 hearing for this parolee; did you not?

11 A. Yes, I did.

12 BRUCE DURANT: Could we have this  
13 marked as State's Exhibit 337?

14 COURT REPORTER: Yes, sir, I will be  
15 glad to. State's Exhibit 337 for  
16 identification.

17 REDIRECT EXAMINATION CONTINUED

18 BY BRUCE DURANT:

19 Q. I hand you what's now been marked as  
20 State's Number 337 for identification purposes  
21 only and ask you if that is the summary of the  
22 administrative hearing that was had regarding  
23 the Defendant on June 4<sup>th</sup>?

24 A. Yes, sir.

25 Q. And in your summary of findings regarding

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.

3556

1 that administrative hearing, does it contain in  
2 there the statements he made concerning he  
3 wished he had killed the police officer?

4 A. No, he said he wished he had "shot them."

5 BRUCE DURANT: Thank you. I have  
6 nothing further, Your Honor.

7 THE COURT: Anything else?

8 MR. BLOOM: Not in terms of  
9 questioning this witness.

10 THE COURT: I'll be happy to hear  
11 from you further.

12 SOLICITOR WILSON: Judge, could I  
13 grab those two cases that I handed up on the  
14 other issue?

15 THE COURT: (Tenders).

16 SOLICITOR WILSON: Thank you.

17 THE COURT: Anything further?

18 MR. BLOOM: Nothing of this witness,  
19 Your Honor. We would argue ---

20 THE COURT: You may come down.  
21 Thank you.

22 MR. BLOOM: --- that this does not  
23 meet the threshold to allow the State to put it  
24 in evidence. I would also note by her own  
25 testimony, the Order/findings she prepared, a



1 copy does not go to the defendant. So he had  
2 no way fourteen years ago to rebut that  
3 assertion at the time it came up. He had no  
4 way to contest it, to say 'No, that's not what  
5 I said. That's not what I meant.' The order  
6 of revocation, which he does get a copy of,  
7 doesn't have that declaration. So it's almost  
8 like a secret finding that she makes that only  
9 the Probation and Parole Board gets. This is  
10 very akin to, I think, *Gardner v. Fore*, the  
11 U.S. Supreme Court case where the sentencer in  
12 that case was the trial judge, not the jury.  
13 And the probation report was one that the trial  
14 judge saw but the defendant and the defendant's  
15 counsel did not. The Court said you have to  
16 give the defendant an opportunity to rebut or  
17 deny or explain any allegation that goes to the  
18 death penalty or life without parole.

19 This is akin to that, because fourteen  
20 years ago when he may have had an opportunity  
21 to say "no, that's not what I meant" or "I said  
22 it differently" or "I want to contest that," he  
23 never gets to see that until now.

24 It's basically a confidential, secret  
25 report that he had no way to rebut or address

1 at the time it was alleged. And now he can't  
2 go back fourteen years later and rebut, deny or  
3 explain that. He can't request a copy of the  
4 tape and say "that's not what I said" or "I  
5 said it in a different context" or some other  
6 explanation. There's no way to go  
7 back. It essentially amounts to a denial of  
8 due process. So we have a Sixth Amendment  
9 issue for the right to counsel and *Miranda*. We  
10 also have the denial of due process because  
11 there's no way for us to now go back and try to  
12 rebut that.

13 It is a -- let me just postulate. If  
14 it's true, as Your Honor can well see it's a  
15 damaging allegation for the jury to have that  
16 information at this juncture. The problem is  
17 the denial of due process comes in that it is  
18 contained in a confidential, secret filing that  
19 he never had an opportunity to rebut, address  
20 or explain at the time.

21 It was not like the ultimate charges  
22 of assaulting an officer and resisting arrest  
23 that he ultimately came to Court and plead  
24 guilty and received a sentence.

25 But here there was no way for him to

1     rebut that or explain that. It's something now  
2     that comes out of the blue fourteen years later  
3     that he didn't have due process rights at the  
4     time. So I think that we're in a Catch 22.  
5     There's no way now, fourteen years later, we  
6     can rebut, deny or explain that alleged  
7     damaging statement. I think that under *Gardner*  
8     as well as the other cases provided to you, I  
9     think it's not admissible for those reasons.

10           This could be incredibly damaging  
11     evidence to the jury, if true -- I acknowledge  
12     that. But the Defendant had to avail himself  
13     of due process rights to be able to deny or  
14     rebut or explain. And he can't. There's no  
15     tape in existence any more to understanding the  
16     context of what was said. For example, he  
17     could have, if he was notified, he could have  
18     filed a grievance or filed a letter or  
19     something saying "No, I didn't say that at the  
20     hearing. I did admit having a gun in my  
21     possession but that's not how I said it or what  
22     I meant." And that could have been addressed.  
23     Now there's no way for us to do that. And for  
24     all those reasons, Your Honor, we respectfully  
25     object.

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.

3560

1 THE COURT: Response?

2 BRUCE DURANT: Just very briefly,  
3 Your Honor. Apparently, the witness was  
4 advised of his right to counsel and he was  
5 advised that anything he said could be used  
6 against him before he testified. I'm sorry  
7 that we don't have a tape. We attempted to get  
8 the tape. But they have had the summary of the  
9 administrative findings for months and months  
10 and months when we were in discovery. It is  
11 not any surprise to them. It goes very well to  
12 the Defendant's state of mind, and it is very  
13 relevant to his character. There's never been  
14 a rule of law that I'm aware of that this court  
15 says that if you can't find a tape of it, it  
16 doesn't come in.

17 THE COURT: Anything else?

18 MR. BLOOM: No, sir.

19 THE COURT: First of all, he is in a  
20 proceeding where he has some reason to be  
21 testifying in the first place, for whatever  
22 reason. The challenge to her testimony and her  
23 credibility is obviously there. The jury has  
24 to make a determination as to the truthfulness  
25 of it. But it goes -- and it really goes

1 in conjunction with what we've heard thus far,  
2 as to the act. There were challenges that you  
3 didn't prove that in the report of what he was  
4 allegedly trying to do. And it further  
5 corroborates their assessment of that, which is  
6 already before this jury, what was taking place  
7 at this particular time. I think the probative  
8 value outweighs the prejudice, and I think it's  
9 appropriate. It goes strictly to his  
10 character, absolutely. So, thank you. Your  
11 objection is noted and preserved.

12 Have we gotten the blood pressure cuff?  
13 It's been taken? Court's 19?

14 COURT REPORTER: No, sir. The first  
15 note was marked as Court's Exhibit 27 and this  
16 will be Court's Exhibit 28.

17 THE COURT: Okay.

18 (SO ENTERED AS COURT'S EXHIBIT 28)

19 THE COURT: Court's Exhibit 27 is  
20 the first note. "Blood pressure is 194 over  
21 100, which is considered to be high. Please  
22 advise." He's one of the alternates. I  
23 think we've gotten this far with four. I don't  
24 see any reason -- I think three will carry us  
25 through to the end of this case. Given the

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

1 attitude, I think the juror ought to be  
2 excused. Any objection from the State?

3 SOLICITOR WILSON: No.

4 THE COURT: Any objection from the  
5 Defendant?

6 MR. BLOOM: No.

7 THE COURT: Ask Mr. Page to come in,  
8 please.

9 (JUROR NUMBER 234 ENTERS COURTROOM)

10 THE COURT: Mr. Page?

11 JUROR NUMBER 234: Yes, sir.

12 THE COURT: You okay?

13 JUROR NUMBER 234: My hands started  
14 sweating.

15 THE COURT: That's fine.

16 JUROR NUMBER 234: I felt real  
17 flushed. I called my wife and actually told  
18 her that I just felt funny. I didn't -- I  
19 actually went to the Mills House and asked over  
20 there, because I know Mr. Edwards and asked if  
21 they had something because I didn't want to  
22 interrupt. Anyway she said it was like 190,  
23 and it was 210 at one time.

24 THE COURT: We need to let you go.  
25 You need to take care of yourself.

1 JUROR NUMBER 234: I'm going to go  
2 straight to Nation's Medical, because my  
3 doctor's on his way back from Rock Hill,  
4 Gaffney.

5 THE COURT: Do you feel all right to  
6 drive?

7 JUROR NUMBER 234: I just walked  
8 around the block. I stopped and had lunch over  
9 here and drank three glasses of water, and I  
10 just drank two more bottles of water. I could  
11 actually get my wife to come. I just walked  
12 around the block. I feel okay. I've not  
13 having chest pains or short of breath.

14 THE COURT: We'll certainly have  
15 someone wait with you for your wife to come,  
16 but we're going to excuse you from further  
17 participation, and I hope all goes well for  
18 you.

19 JUROR NUMBER 234: Yes, sir.

20 THE COURT: Thank you so much.

21 JUROR NUMBER 234: I'm sorry.

22 THE COURT: No, sir, don't  
23 apologize. We hope everything's good. Thank  
24 you so much, sir.

25 (JUROR NUMBER 234 EXCUSED)

1 THE COURT: We're ready to continue.

2 SOLICITOR WILSON: Judge, I'm  
3 going to hand up a number of photographs just  
4 so the Court can have them during this time.  
5 And when we get through we'll review which ones  
6 you're okay with.

7 THE COURT: Thank you. Is the State  
8 ready to proceed?

9 SOLICITOR WILSON: Yes, sir.

10 THE COURT: Defendant is ready to  
11 proceed?

12 MR. BLOOM: Yes, sir.

13 THE COURT: Let's bring in our jury.

14 (JURY IN @ 2:22 P.M.)

15 THE COURT: Thank you very much,  
16 ladies and gentlemen. Please be seated. Thank  
17 you. Ladies and gentlemen, thank you. I hope  
18 you had a good lunch.

19 You are familiar that Mr. Page has  
20 brought our attention to a matter, and out of  
21 an abundance of caution, we've excused him from  
22 further participation in the dispute.

23 Ms. Earheart, Ms. Ancrum and Ms.  
24 Dobson, you now have the back row just for the  
25 three of you. I want to thank you very much



1 and ask you to give your attention now to the  
2 next witness. Call your next witness.

3 BRUCE DURANT: Thank you, Your  
4 Honor. The State would call Lawrence Gainey.

5 (WITNESS TAKES STAND)

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

9 DIRECT EXAMINATION

10 BY BRUCE DURANT:

11 Q. Good afternoon, Mr. Gainey.

12 A. Good afternoon.

13 Q. Could you tell the jury what you do for a  
14 living, sir?

15 A. I'm a Major in charge of investigative  
16 services of the State Law Enforcement Division,  
17 also known as SLED.

18 Q. How long have you been with SLED?

19 A. I've been with SLED for twenty-three  
20 years.

21 Q. And your current duty is Major of  
22 investigative services. What is that exactly?  
23 What does are the duties of that job?

24 A. It entails the regional investigation,  
25 that's our criminal investigation part of SLED,

1 along with our tactical services, such as the  
2 SWAT Team, aviation, bloodhounds, technical  
3 services, narcotics investigation, special  
4 victims investigation, behavioral sciences,  
5 computer crimes, polygraph, and I'm sure there  
6 are some others.

7 Q. What were you doing with SLED back in  
8 1996?

9 A. In 1996 I worked in the forensics lab.  
10 Specifically, I was assigned to the firearms  
11 department.

12 Q. And how long did you work in the firearms  
13 identification section of SLED?

14 A. Actually I spent two tours of duty in our  
15 firearms identification lab. I came to SLED in  
16 1986 and I was assigned to the firearms  
17 department.

18 At that time we conducted firearms  
19 investigations, we worked crime scenes, we did  
20 latent fingerprint identification, we did  
21 footwear and tire track identification, we did  
22 fracture matches.

23 And in 1990 the laboratory was split into  
24 two different parts, the firearms and tool mark  
25 laboratory and the latent print and crime scene

1 laboratory. I was assigned to the latent print  
2 crime scene laboratory until 1993. Then I was  
3 reassigned back to the firearms laboratory.

4 Q. What does the field of firearms  
5 identification consist of?

6 A. There's actually two parts. One has to do  
7 with internal ballistics, and then external  
8 ballistics. Internal ballistics is the value  
9 of function, manufacture and how the firearm  
10 will function, how it fires. But also the  
11 marks that are left on components and parts of  
12 components, such as a bullet or a cartridge  
13 casing.

14 Q. What specialized training have you had in  
15 the area of firearms identification during your  
16 career?

17 A. It's usually -- back in the old days there  
18 was no specific school for firearms  
19 identification in 1986 or 1993. We had schools  
20 that were associated with, for instance,  
21 international associations for identification.  
22 And then there were armory courses that you  
23 could attend for various manufacturers. Mostly  
24 it was on-the-job training for people who had  
25 been in the firearms identification field for

1 many years.

2 Q. What are armory courses?

3 A. They are courses that are put on by the  
4 manufacturers of firearms that explain the  
5 components of a firearm, the individual  
6 workings. In most cases it allows you to fix  
7 or repair a firearm, and the explanation of how  
8 the different parts go together. You have to  
9 know the specific parts of a firearm, how they  
10 are put together. How to take a firearm all  
11 the way apart to repair any damage and put it  
12 back together and make sure that it will  
13 function as a firearm.

14 Q. How long did you actually work in the  
15 field of firearm identification?

16 A. Around nine years.

17 Q. And how many cases did you handle in those  
18 years?

19 A. Hundreds or around two hundred cases a  
20 year.

21 Q. Are you authorized by SLED at the time to  
22 conduct firearms investigations?

23 A. Yes, sir, I was.

24 Q. Are you a member of any professional  
25 organizations related to firearms

1 identification?

2 A. The International Association for  
3 Identification.

4 Q. And have you been qualified as an expert  
5 in the field of firearms identification in the  
6 past?

7 A. Yes, sir, I have.

8 Q. On how many occasions and in what courts?

9 A. In State court, in Family court and in  
10 military courts.

11 Q. On how many occasions have you been  
12 qualified as an expert?

13 A. In all fields, it would be several hundred  
14 cases and specifically firearms over forty-five  
15 times.

16 BRUCE DURANT: Your Honor, at this  
17 time we'd offer Mr. Gainey as an expert in the  
18 field of firearms identification, if there's no  
19 objection.

20 MR. BLOOM: No objection.

21 THE COURT: Very well, he will be  
22 permitted to render opinions in that area.

23 BRUCE DURANT: Thank you, Your  
24 Honor.

25 DIRECT EXAMINATION CONTINUED

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

3570

1 BY BRUCE DURANT:

2 Q. Mr. Gainey, I want to ask you about an old  
3 case. Your lab number would be L-96-6639. Did  
4 you have the occasion to examine some evidence  
5 submitted to you by the Charleston Police  
6 Department?

7 A. Yes, sir.

8 Q. Do you recall what that evidence was?

9 A. There were several pieces of evidence that  
10 were submitted. Among them, I examined the  
11 Star Super nine-millimeter caliber firearm.

12 Q. Was there any ammunition submitted along  
13 with that firearm?

14 A. Yes, sir, there was.

15 Q. I show you what's previously been marked  
16 as State's Exhibit Number 145 in evidence.  
17 Does that appear to be the weapon you examined  
18 back in 1996?

19 A. Yes, sir, it does.

20 Q. If you've already answered this, I  
21 apologize. Was some ammunition submitted with  
22 the weapon as well?

23 A. Yes, there were several unfired nine  
24 millimeter luger-caliber cartridges.

25 Q. Okay.

1 A. There were eight.

2 Q. Eight altogether?

3 A. Yes, sir.

4 Q. Those were all nine-millimeter luger  
5 cartridges. Is that correct?

6 A. Yes, sir. If I could explain, a  
7 "cartridge" is what most folks would call  
8 unfired bullets. Actually it consists of a  
9 cartridge case, a primer, the powder is on the  
10 inside and then the bullet that is fitted and  
11 that would be an unfired cartridge.

12 Q. So all of the ammunition submitted was  
13 nine-millimeter luger. Is that correct?

14 A. That's correct.

15 Q. Did you examine the Star model that was  
16 submitted along with the ammunition?

17 A. Yes, sir.

18 Q. And what was the caliber of the pistol?

19 A. It was a Star Model Super pistol, and the  
20 chamber of that -- or the caliber of that  
21 weapon is nine-millimeter largo. That is a  
22 different caliber than a nine-millimeter luger.

23 Q. In what regard, sir?

24 A. The nine-millimeter largo is approximately  
25 four millimeters longer. That would be the

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

3572

1 cartridge case. It takes the same bullet, but  
2 the cartridge case is approximately four  
3 millimeters longer.

4 Q. I believe in preparation for your  
5 testimony you actually brought a sample of each  
6 caliber. Is that correct?

7 A. Yes, sir, I did.

8 Q. Are these the samples you brought, sir?

9 A. Yes, sir, they are.

10 BRUCE DURANT: Your Honor, could  
11 we mark these as an exhibit if I had something  
12 to put them in.

13 THE COURT: All right.

14 COURT REPORTER: State's Exhibit 338  
15 for identification.

16 THE COURT: This is for I.D. only?

17 BRUCE DURANT: That's correct,  
18 Your Honor.

19 DIRECT EXAMINATION CONTINUED

20 BY BRUCE DURANT:

21 Q. Mr. Gainey, with reference to what's been  
22 marked as State's Exhibit Number 338 for  
23 identification, would this assist you in  
24 explaining to the jury the difference between  
25 those two cartridges.



1 A. Yes, sir.

2 The gold colored, brass colored cartridge,  
3 the luger bullet is a nine-millimeter luger.

4 The cartridge that is silver or actually  
5 aluminum with the copper-colored top is  
6 actually a nine-millimeter largo.

7 As you can see the largo is longer.

8 The luger is shorter.

9 Q. Is that the principal difference between  
10 those two rounds?

11 A. That is the principal difference between  
12 those two rounds.

13 Q. The diameter of the bullet is exactly the  
14 same?

15 A. It is.

16 Q. The diameter of the cartridge case is  
17 exactly the same. Is that correct?

18 A. That is.

19 Q. So it's just the length that we're talking  
20 about, correct?

21 A. Yes, sir.

22 Q. So the bottom line, was the ammunition  
23 that was submitted with that weapon the correct  
24 ammunition for that weapon?

25 A. The ammunition that was submitted is not

1 the correct ammunition to be fired in the Star  
2 Model Super nine-millimeter largo-caliber  
3 pistol. It is incorrect ammunition.

4 Q. During your examination of the weapon did  
5 you test fire the weapon using the correct  
6 ammunition?

7 A. Yes, sir, I did.

8 Q. What was the result of your testing?

9 A. During testing, when loaded with nine-  
10 millimeter largo-caliber cartridges the firearm  
11 functioned as designed. That is, it would  
12 feed, fire, extract and feed semi-  
13 automatically, so that, according to the number  
14 of cartridges that were placed in the magazine,  
15 it would fire with each pull of the trigger.  
16 It would load it. It would fire it. It would  
17 extract it, and then it would load the next  
18 one.

19 Q. Also, as part of your testing did you  
20 attempt to test fire the Star pistol using  
21 nine-millimeter luger ammunition?

22 A. I attempted to fire it using nine-  
23 millimeter luger. And in my test I could not  
24 get the weapon to feed appropriately the nine-  
25 millimeter luger caliber cartridge, nor could I

1 get it to fire the nine-millimeter luger-  
2 caliber cartridge.

3 Q. So your test indicated that it would not  
4 fire a nine-millimeter luger round, even when  
5 the chamber was manually loaded?

6 A. It would not.

7 Q. How is that possible?

8 A. Well, on the face, the breach face, which  
9 would be the back of the slide there's a piece  
10 called an extractor. It's like a little hook  
11 that actually fits -- (displaying), this is a  
12 rimless cartridge. That is the base is the  
13 same diameter as the cartridge case. There's a  
14 hook that comes out of the breach of the  
15 firearm and actually hooks around what is  
16 called the extractor groove. This extractor  
17 hook would extract the cartridge. This  
18 particular pistol, just the way that it is  
19 manufactured, the extractor would not extract  
20 the nine-millimeter luger cartridge. It  
21 wouldn't grab hold of the extractor groove. In  
22 fact, it would push it further into the barrel.  
23 And on a rimless cartridge, there's actually  
24 space on the mouth of the cartridge that's  
25 where the bullet and the cartridge face come

1 together. There's a condition all the way  
2 around. That link of the chamber in which the  
3 cartridge fits in, it fits space from the mouth  
4 of the cartridge back to the end or butt of the  
5 cartridge.

6 Again, the nine millimeter largo when  
7 chambered, which is approximately four  
8 millimeters longer, this doesn't fit properly  
9 and it actually goes further into the chamber  
10 than it is supposed to.

11 Q. There's been previous testimony that at  
12 the time that weapon was recovered that there  
13 was a round in the chamber that was so far  
14 forward in the chamber that it had to be  
15 removed by putting a rod through the muzzle.  
16 Assuming that statement is fact, would it have  
17 been possible or probable for this gun to have  
18 been cocked and fired without actually  
19 discharging?

20 A. It would. In fact, in my test I couldn't  
21 get it to fire in that condition. The  
22 cartridge case was so far down the barrel I  
23 could not get it to fire.

24 Q. And would that be because the firing pin  
25 would not impact with the primer on the back of

1 the cartridge?

2 A. That would be true. It wouldn't impact  
3 with enough impetus or enough force, if it  
4 would impact at all, for it to fire.

5 Q. And if that were the case, what would the  
6 gun do if it were cocked and the trigger were  
7 pulled?

8 A. Click. The hammer would fall, but the  
9 firing pin would not go far enough forward. So  
10 you would just hear a click.

11 BRUCE DURANT: The Court's  
12 indulgence, please.

13 THE COURT: Certainly.

14 DIRECT EXAMINATION CONTINUED

15 BY BRUCE DURANT:

16 Q. Please answer any questions defense  
17 counsel may have for you.

18 A. Okay.

19 THE COURT: Cross examine.

20 MR. BLOOM: If it please the Court.

21 CROSS EXAMINATION

22 BY MR. BLOOM:

23 Q. Agent Gainey, I may have only one question  
24 for you, sir. A cartridge can get in that  
25 chamber also manually. Is that correct?

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.

3578

1 A. Yes, sir.

2 Q. That's all I have. Thank you.

3 THE COURT: Redirect?

4 BRUCE DURANT: No, sir, Your  
5 Honor. I would ask that Mr. Gainey be excused,  
6 if there's no objection.

7 THE COURT: Any objection?

8 MR. BLOOM: No, sir.

9 THE COURT: You are also free to  
10 leave, Mr. Gainey, and you may step down, sir.

11 THE WITNESS: Thank you, sir.

12 THE COURT: Thank you.

13 (WITNESS STEPS DOWN)

14 BRUCE DURANT: State would call  
15 Cededrick Davis.

16 (WITNESS TAKES STAND)

17 CEDEDRICK DAVIS, being duly sworn to  
18 tell the truth, the whole truth and nothing but  
19 the truth, testified, as follows:

20 DIRECT EXAMINATION

21 BY BRUCE DURANT:

22 Q. Good afternoon, Ms. Davis. How are you  
23 today?

24 A. Good.

25 Q. Could you tell the jury what you do for a

1 living?

2 A. I'm a United States Probation Officer.

3 Q. And how long have you been with the United  
4 States Probation Office?

5 A. Since June 1997.

6 Q. What do you do with the Federal Probation  
7 Office?

8 A. I supervise offenders who have been  
9 convicted of federal crimes in order to  
10 successfully complete supervision in the event  
11 they violate. I prepare reports to the Court  
12 for violation proceedings.

13 Q. What were you doing back in 1996?

14 A. In 1996, I was an administrative officer  
15 with the South Carolina Probation and Parole  
16 Department, or State probation.

17 Q. So you were with State probation before  
18 you went to Federal probation; correct?

19 A. Correct.

20 Q. What does an administrative hearing  
21 officer with the State probation department do?

22 A. The administrative hearing officer  
23 presides over violation hearings. If a parolee  
24 violated the provisions of supervision, they  
25 would come before the administrative hearing

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.

3580

1 officer who hears the violation. The  
2 administrative hearing officer either continues  
3 the violator under supervisor, continues them  
4 on supervision with modifications upon the  
5 Court's approval or remands the case to General  
6 Sessions Court or the Parole Board for  
7 violation revision.

8 Q. And how long were you employed as an  
9 administrative hearing officer with the State  
10 probation office?

11 A. From 1994 to 1997.

12 Q. As part of your duties as a hearing  
13 officer did you prepare summaries of hearings  
14 that you had with State probation?

15 A. Yes.

16 Q. I hand you what's previously marked for  
17 identification only as State's Exhibit 337 and  
18 ask if you recognize that document?

19 A. Yes, I do.

20 Q. What is that?

21 A. This is a summary of an administrative  
22 hearing held on June 4<sup>th</sup>, 1996, with the parolee  
23 being William Dickerson.

24 Q. And you prepared that document?

25 A. I did.



1 Q. Who all was at the hearing?

2 A. Other than myself, the parole agent as  
3 well as the parolee, William Dickerson.

4 Q. He was on parole, I believe at the time,  
5 for strong armed robbery and assault of a high  
6 and aggravated nature. Is that correct?

7 A. I'm not sure of the originating offense.

8 Q. But you were doing a parole hearing on  
9 those particular offenses. Is that correct?

10 A. Correct.

11 Q. Were you aware at the time of your hearing  
12 in June of 1996 of him having been involved in  
13 some sort of shooting incident with the  
14 Charleston Police Department?

15 A. That came out during the course of the  
16 hearing.

17 Q. And what did Mr. Dickerson tell you during  
18 the course of the hearing concerning that  
19 particular incident?

20 A. He denied that he pointed his weapon at  
21 the officers. He did admit having a weapon and  
22 also repeatedly during the course of the  
23 hearing he stated he wished he'd shot the  
24 officers.

25 Q. Would you please answer any questions

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.

3582

1 defense counsel may have for you?

2 THE COURT: Cross examine.

3 MR. BLOOM: May it please the Court.

4 CROSS EXAMINATION

5 BY MR. BLOOM:

6 Q. Ms. Davis, how are you today, ma'am?

7 A. Good, thank you.

8 Q. Let me start by asking at the time this  
9 happened, of course, Mr. Dickerson was nineteen  
10 years old; correct?

11 A. I don't have the date of birth right here.

12 Q. If the record reflects he was around  
13 nineteen years, you wouldn't dispute that.

14 A. I wouldn't.

15 Q. From how he appeared to you at the time;  
16 correct?

17 A. Correct.

18 Q. And this takes place, this hearing takes  
19 place in the Department of Corrections; right?

20 A. At the Charleston County Detention Center.

21 Q. So this was at the Charleston County  
22 Detention Center. And, of course, he had been  
23 incarcerated since that incident with the  
24 officers; correct?

25 A. I believe so.

1 Q. And he had been shot, to your knowledge,  
2 twice; correct?

3 A. I know he had been shot. There were  
4 minimal injuries.

5 Q. One shot was to the head, correct? Did  
6 you know that? Right around that area?

7 A. I didn't know.

8 Q. So a nineteen-year-old who's locked up  
9 shortly after this incident, it would not be  
10 unusual for him to be -- and if he had been  
11 shot -- for him to be upset over it. Is that  
12 fair to say?

13 A. I imagine so.

14 Q. And I think you told us that he did admit  
15 to you truthfully that he had a gun in his  
16 possession?

17 A. Correct.

18 Q. But he did deny that he had pointed it  
19 directly at the officers?

20 A. Correct.

21 Q. Now, next I want to ask you the allegation  
22 of the statement he made about the officers,  
23 you put that in a report that you do that has  
24 findings in it; is that correct?

25 A. That's correct.

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.

3584

- 1 Q. But he doesn't get a copy of that?
- 2 A. No, he does not.
- 3 Q. So your report, as I understand it, then
- 4 goes to the parole agent?
- 5 A. Correct.
- 6 Q. And goes also to the Parole Board?
- 7 A. Correct.
- 8 Q. And then the Parole Board may issue an
- 9 order of recommendation that revokes his
- 10 parole; correct?
- 11 A. At the final revocation hearing.
- 12 Q. Right. And isn't it also correct that the
- 13 allegation about what he may have said about
- 14 the officers is not in the order of revocation.
- 15 Isn't that correct?
- 16 A. That's correct.
- 17 Q. And that's a copy of what he gets. Is
- 18 that correct? He gets a copy of the order of
- 19 revocation.
- 20 A. Yes.
- 21 Q. He doesn't get your confidential report?
- 22 A. He does not get a copy of my findings.
- 23 So if he had wanted to dispute or explain
- 24 any comments alleged to him back in '96, if it
- 25 was not in the order of revocation he would

1 have not have gotten notice of your findings?

2 A. If it came up during the course of the

3 final revocation hearing, if that came up.

4 Since I wasn't at that final revocation

5 hearing, I don't know if it came up.

6 Q. All right, and in -- thank you very much.

7 THE COURT: Redirect.

8 BRUCE DURANT: Just one.

9 REDIRECT EXAMINATION

10 BY BRUCE DURANT:

11 Q. To be clear, you do say that in the  
12 summary of your findings back in 1996; is that  
13 correct?

14 A. I state what?

15 Q. About his statement about he wished he had  
16 shot the police officer?

17 A. Correct. He repeatedly said he wished  
18 he'd shot the officers.

19 RECROSS EXAMINATION

20 BY MR. BLOOM:

21 Q. Just so we're clear, he doesn't get a copy  
22 of that report that you issue.

23 A. That's correct.

24 Q. Thank you, ma'am.

25 THE COURT: You may come down.

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.

3586

1 BRUCE DURANT: I would ask that  
2 Ms. Davis be excused.

3 THE COURT: Any objection?

4 MR. BLOOM: No objection, Your  
5 Honor.

6 THE COURT: You are also free to  
7 leave. Thank you.

8 (WITNESS STEPS DOWN)

9 THE COURT: Call your next witness,  
10 please.

11 BRUCE DURANT: The state would  
12 call Tomiesha Nelson.

13 (WITNESS TAKES STAND)

14 TOMIESHA NELSON, being duly sworn to  
15 tell the truth, the whole truth and nothing but  
16 the truth, testified, as follows:

17 DIRECT EXAMINATION

18 BY BRUCE DURANT:

19 Q. Good afternoon, Ms. Nelson. You have  
20 previously testified in this proceeding. Is  
21 that correct?

22 A. Yes, sir.

23 Q. You are the former girlfriend of the  
24 Defendant, William Dickerson. Is that correct?

25 A. Yes, sir.

1 Q. I believe in the first phase of this trial  
2 you testified concerning an incident which  
3 occurred at your place on Cedar Road on March  
4 the 3<sup>rd</sup> of 2006. Is that correct?

5 A. Yes, sir.

6 Q. And if you would just briefly tell the  
7 jury what happened that morning between you and  
8 Mr. Dickerson.

9 A. We'd had an argument the day before. He  
10 came back, we still were arguing. He came  
11 back, he picked the phone up and he attacked me  
12 and he fought me.

13 Q. Pardon me?

14 A. He attacked me.

15 Q. How did he attack you?

16 MR. BLOOM: Your Honor, I object to  
17 this. This has been testified to already. If  
18 they want to get to the photographs, we have no  
19 objection to that but for her to repeat her  
20 testimony from the ---

21 THE COURT: I sustain the objection.  
22 We've incorporated it.

23 DIRECT EXAMINATION CONTINUED

24 BY BRUCE DURANT:

25 Q. How long had Mr. Dickerson been out of

1 prison at the time of this?

2 A. Two or three months.

3 Q. I want to hand you what's previously been  
4 marked as State's Exhibits 149 and 151 for  
5 identification and ask if you recognize those  
6 photographs?

7 A. (Upon review) -- yes.

8 Q. What are those photographs of?

9 A. Me.

10 Q. Those photographs were taken of you on  
11 March the 3<sup>rd</sup> of 2006?

12 A. Yes, sir.

13 Q. Before or after your altercation with Mr.  
14 Dickerson?

15 A. After.

16 Q. Do they fairly and accurately depict your  
17 condition on that day after your argument with  
18 Mr. Dickerson?

19 A. Yes, sir.

20 BRUCE DURANT: Your Honor, at this  
21 time we would offer State's 149 and 151 into  
22 evidence.

23 THE COURT: Any objection?

24 MR. BLOOM: If I could just see  
25 them, I don't think we have an objection.



1 THE COURT: Sure.

2 MR. BLOOM: (Upon review) -- no  
3 objection.

4 THE COURT: Without objection,  
5 State's 149 and 151 are admitted, each being a  
6 photograph.

7 (SO ENTERED AS STATE'S EXHIBIT 149)

8 (SO ENTERED AS STATE'S EXHIBIT 151)

9 DIRECT EXAMINATION CONTINUED

10 BY BRUCE DURANT:

11 Q. Could we see State's 149, please? What  
12 does this photograph depict, Ms. Nelson?

13 A. Sir?

14 Q. What does that depict, State's Number 149?

15 A. Me.

16 Q. And what happened to your face at that  
17 location?

18 A. William Dickerson beat me up.

19 THE COURT: Speak into the mic,  
20 please, ma'am.

21 DIRECT EXAMINATION CONTINUED

22 BY BRUCE DURANT:

23 Q. How about State's 151?

24 A. It's another one of my body.

25 Q. After you were able to get out of your

1 house where did you go?

2 A. I ran outside, ran to a neighbor and took  
3 her phone and ran into her house.

4 Q. Pardon me?

5 A. I ran outside, ran to a neighbor's house,  
6 ran through her house, down the street, and  
7 called for help.

8 Q. Who did you call?

9 A. My family and the police.

10 Q. Did you have to seek any medical treatment  
11 as a result of your injuries?

12 A. Yes. I had a CAT scan, had to get  
13 transported from one hospital to another and  
14 they kept me overnight but then they released  
15 me.

16 Q. You testified briefly that you continued  
17 to have contact with Mr. Dickerson after this  
18 incident occurred. Is that correct?

19 A. Yes.

20 Q. Were you also dealing with some law  
21 enforcement authorities?

22 A. Probation and parole, yes.

23 Q. And why were you dealing with them?

24 A. They were supposed to -- when we left the  
25 hospital -- my mother lived in North

1 Charleston, so when we were told that they  
2 would release me William was still bothering me  
3 and they told me that the only people that I  
4 could talk to were Probation & Parole; that he  
5 violated it, so that he would stay away from  
6 me, because he had approached on previous  
7 conversations and ---  
8 Q. And who -- who told you that?  
9 A. The police.  
10 Q. And is that why you recorded that  
11 conversation that was previously admitted in  
12 this case?  
13 A. I was afraid, but I recorded it.  
14 Q. Why were you afraid?  
15 A. Before then, I wasn't sure why -- I didn't  
16 know all this was going on.  
17 Q. How about after the fact, when you were  
18 separated from him? What was the tenor of your  
19 phone calls with him at that point?  
20 A. He had a friend of his -- (paused) --  
21 kidnaped, so I was trying to figure out what  
22 was going on, so I taped it.  
23 Q. I understand that. Were there ever any  
24 threats made to you?  
25 A. (Affirmative nod), several threats.

1 Q. Pardon me?

2 A. Several threats. He said he was going to  
3 kill me, my friends. He said he was going to  
4 stick a gun up my daughter's rear end.

5 Q. And did you report all this to the  
6 probation officers?

7 A. Yes, sir.

8 BRUCE DURANT: Court's indulgence.

9 THE COURT: Yes, sir.

10 DIRECT EXAMINATION CONTINUED

11 BY BRUCE DURANT:

12 Q. Would you please answer any questions the  
13 defense may have for you?

14 A. (No verbal response).

15 THE COURT: Cross?

16 MR. BLOOM: May it please the Court.

17 CROSS EXAMINATION

18 BY MR. BLOOM:

19 Q. Ms. Nelson, you and William had gotten  
20 together, I believe, around January of 2006.  
21 Is that correct?

22 A Yes, sir.

23 Q. And prior to that he had gotten released  
24 from the South Carolina Department of  
25 Corrections back around September of 2005.

1     Would that be fair to say?

2     A.    Yes, sir.

3     Q.    That sounds about right to you?

4     A.    Yes, sir.

5     Q.    You didn't just meet him in January of

6     2006.  You all had known each other prior to

7     that at some point?

8     A.    We went to high school together.

9     Q.    And so you kind of re-met each other and

10    re-kindled whatever that relationship was; in

11    January of 2006, is that fair to say?

12    A.    Yes.

13    Q.    I believe you have told us you have three

14    children already?

15    A.    Yes, sir.

16    Q.    And what were their ages roughly three

17    years ago?

18    A.    Three years ago?

19    Q.    What are they now -- if that is easier?

20    A.    They're nine, six and five now.

21    Q.    Nine, six and five.  So they would have

22    roughly been about six, three and two.

23    A.    Yes.

24    Q.    And they aren't William's children;

25    correct?

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.

3594

- 1 A. No, sir.
- 2 Q. But when your relationship started he  
3 helped provide for you and your children to  
4 some degree?
- 5 A. Yes.
- 6 Q. Helped buy groceries?
- 7 A. Yes, sir.
- 8 Q. Helped buy clothes for your children?
- 9 A. Yes, sir.
- 10 Q. And was trying to take care of you and  
11 create a family. Is that fair to say?
- 12 A. Yes, sir.
- 13 Q. And at some point in time in the household  
14 there began some drug use?
- 15 A. In the household? No.
- 16 Q. I may have phrased it wrong. Let me ask  
17 this. At some point in time drugs began to  
18 start being used, correct?
- 19 A. No, sir.
- 20 Q. No?
- 21 A. (Negative gesture).
- 22 Q. You don't recall that?
- 23 A. No, sir.
- 24 Q. Let me just ask it this way. Were you  
25 using any drugs during that period of time that

1 you were with William?

2 A. Yes, I used marijuana.

3 Q. And he was too, correct?

4 A. Yes, sir.

5 Q. And some cocaine as well?

6 A. Yes, sir.

7 Q. And he began deteriorating. Is that fair  
8 to say?

9 A. What does that mean?

10 Q. His drug use seemed to increase over a  
11 period. Is that fair to say?

12 A. Yes, sir.

13 Q. And lastly, on this incident, I believe  
14 you told us he took you to the hospital that  
15 Sunday or thereabouts for further treatment?

16 A. Yes.

17 Q. And I think you also told us that was the  
18 only time you had a fight of that nature?

19 A. That bad.

20 Q. Thanks very much.

21 THE COURT: Redirect.

22 BRUCE DURANT: No, sir, Your  
23 Honor.

24 THE COURT: Thank you. You may come  
25 down, Ms. Nelson.

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.

3596

1 (WITNESS STEPS DOWN)

2 BRUCE DURANT: State would call  
3 Lester Williams.

4 (WITNESS TAKES STAND)

5 LEESTER WILLIAMS, being duly sworn to  
6 tell the truth, the whole truth and nothing but  
7 the truth, testified, as follows:

8 DIRECT EXAMINATION

9 BY BRUCE DURANT:

10 Q. What's your first name?

11 A. Leester Williams.

12 Q. Good afternoon, Ms. Williams.

13 A. Good afternoon.

14 Q. Could you tell the jury what you do for a  
15 living, ma'am?

16 A. I'm a tactical officer.

17 Q. A tactical officer?

18 A. With the tactical control team with  
19 Charleston County Sheriff's Office at the  
20 detention center.

21 Q. Is that where you work, at the Detention  
22 Center?

23 A. Yes, sir.

24 Q. How long have you been a tact officer at  
25 the Detention Center?



- 1 A. Four years.
- 2 Q. What exactly does a tact officer do?
- 3 A. We pretty much perform every service
- 4 within the facility as far as involving Unit
- 5 1A.
- 6 Q. What is Unit 1A?
- 7 A. Unit 1A is the disciplinary unit that
- 8 houses disciplinary inmates and inmates under
- 9 protective custody.
- 10 Q. I'd like to direct your attention back to
- 11 December 7<sup>th</sup> of 2008. Did you have an occasion
- 12 through your job as a tactical officer at the
- 13 detention center to come into contact with the
- 14 Defendant, William Dickerson?
- 15 A. Yes, sir.
- 16 Q. Where was he housed at that time?
- 17 A. In Unit 1A, cell ---
- 18 Q. And who was his roommate in that cell?
- 19 A. John Williams.
- 20 Q. What was the tac team doing that week?
- 21 A. We were conducting searches of the unit.
- 22 Q. When you say "the unit" are you talking
- 23 about all cells in that unit, or just Mr.
- 24 Dickerson's?
- 25 A. All the cells.

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.

3598

1 Q. And what were you'all doing searches for?

2 A. We were just searching the unit for  
3 anything that should not have been there. Just  
4 a normal operation.

5 Q. Okay.

6 MR. BLOOM: Judge, just renew my  
7 prior objection.

8 THE COURT: Yes, you've argued that  
9 fully on the record. I sustained some of it  
10 and we're moving forward now.

11 DIRECT EXAMINATION CONTINUED

12 BY BRUCE DURANT:

13 Q. I just want to get to the point of this  
14 incident, Ms. Williams, where Mr. Williams --  
15 when Mr. Dickerson and his roommate was coming  
16 out of the room. Could you tell us was Mr.  
17 Williams and Mr. Dickerson ordered to come out  
18 of the cell for you'all to do your search?

19 A. Could you say that again?

20 Q. Were Mr. Williams and Mr. Dickerson  
21 ordered to come out of the cell so that you'all  
22 could do your search?

23 A. Yes, sir.

24 Q. Did Mr. Williams come out of the cell?  
25 John Williams?

- 1 A. No, sir, he went back in.
- 2 Q. Tell us about that. What happened from  
3 that point on is what we need to know.
- 4 A. He doubled back to go back in the cell,  
5 Officer Asher, that's when he was immediately -  
6 --
- 7 Q. Who was with you on that occasion?
- 8 A. Officers Walters, Officer Asher and  
9 myself.
- 10 Q. There's a fourth member of your team named  
11 Michael Huggins. Is that correct?
- 12 A. Yes, sir.
- 13 Q. What was Mr. Huggins doing?
- 14 A. He was popping the doors open.
- 15 Q. He was what?
- 16 A. Popping the doors, opening the doors to  
17 the cells.
- 18 Q. The cell doors open electronically. Is  
19 that correct?
- 20 A. Yes, sir.
- 21 Q. And where is that done from?
- 22 A. At the desk.
- 23 Q. So he was at the desk where you'all were  
24 at the cell?
- 25 A. Yes, sir.

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

3600

- 1 Q. Okay. Now, you said Mr. Williams started  
2 coming out of the cell. Is that correct?  
3 A. Yes, sir.  
4 Q. Where was Mr. Dickerson when Mr. Williams  
5 started coming out of the cell?  
6 A. He was in the rear of the cell.  
7 Q. And what did Officer Asher do when Mr.  
8 Williams started coming out of the cell?  
9 A. He was just standing right next to Mr.  
10 Dickerson. He had his back to him, so he  
11 couldn't actually see him when he ---  
12 Q. Had his back to who?  
13 A. Mr. Williams.  
14 Q. Officer Asher had his back to Mr.  
15 Williams?  
16 A. Yes.  
17 Q. And what did Mr. Williams do?  
18 A. He turned back toward him with his arms  
19 like this -- (demonstrating).  
20 Q. Turned back towards who?  
21 A. Officer Asher.  
22 Q. What happened after Mr. Williams turned  
23 back toward Officer Asher with his fist?  
24 A. He was immediately grabbed by Officer  
25 Walter. And then I assisted with pulling him

1 out of the cell.

2 Q. And what happened when you'all pulled Mr.  
3 Williams out of the cell?

4 A. We were fighting at that time. When he  
5 did that, Officer Asher came out of the cell to  
6 assist with Mr. Williams. That's when Mr.  
7 Dickerson came up behind Officer Asher, grabbed  
8 him around his waist and took him to the  
9 ground?

10 Q. And how did he take him to the ground?

11 A. He picked him up and threw him to the  
12 ground.

13 Q. And that was Officer Asher?

14 A. Yes.

15 Q. And what happened after that?

16 A. Just as he was doing that, Officer Huggins  
17 came from the desk to assist. And once he did  
18 that, that's when Mr. Dickerson tried to get  
19 ahold of Mr. Huggins as well. At that time I  
20 was trying to grab his legs to keep him from  
21 bracing against anything.

22 Q. What was he doing with Officer Huggins?

23 A. He had him around his neck.

24 Q. How?

25 A. Like this (demonstrating), and he was on

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.

3602

1 top.

2 Q. Kind of like this?

3 A. Well, Officer Huggins' body was like this.  
4 His head was here. He was here. And he had  
5 him like this.

6 Q. Around what part of him?

7 A. His neck.

8 Q. And what did you do then?

9 A. That's when I grabbed his legs to keep him  
10 from bracing. I was trying to get a tighter  
11 hold. I keep pulling his legs, pulling his  
12 legs. When I did that, when I was able to get  
13 ahold of his legs that's when Officer Huggins'  
14 legs come out from underneath him. He and I  
15 were still kind of tussling at that time.

16 Q. Were you able to subdue Mr. Dickerson?

17 A. Ultimately, yes, sir.

18 Q. Did you sustain any injuries in this  
19 altercation?

20 A. No, sir. Officer Huggins did. His knee.

21 Q. Did Mr. Dickerson sustain any injuries in  
22 this altercation?

23 A. Some bruises.

24 Q. As a result of this incident what type of  
25 security procedures are in place at the jail

1 regarding the Defendant, William Dickerson?

2 MR. BLOOM: Your Honor, I object to  
3 that.

4 THE COURT: I sustain the objection.

5 BRUCE DURANT: Court's indulgence.

6 THE COURT: Certainly.

7 DIRECT EXAMINATION CONTINUED

8 BY BRUCE DURANT:

9 Q. Would you please answer any questions the  
10 defense counsel may have for you?

11 A. Yes, sir.

12 THE COURT: Cross.

13 MR. CARROLL: May it please the  
14 Court.

15 CROSS EXAMINATION

16 Q. This was a rather routine matter for the  
17 officers there in that Unit; correct?

18 A. Yes, sir.

19 Q. And as you'all instructed Inmate Williams,  
20 he started coming out of the cell. Is that  
21 correct?

22 A. Yes, sir.

23 Q. And at some point, for some reason, he  
24 turned around and headed back in?

25 A. Yes, sir.

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

1 Q. And as a result of that, he ended up on  
2 the floor with all the officers then at the  
3 time there on him in some capacity; correct?

4 A. Not all.

5 Q. Officer Asher had gone back to him;  
6 correct?

7 A. Say that again.

8 Q. Officer Asher had come out of the cell  
9 with Mr. Williams; correct?

10 A. After Officer Walters and I pulled him out  
11 of the cell, Asher came up to assist.

12 Q. So at that point in time the officers  
13 dealing with Mr. Williams would have been  
14 yourself, Officer Asher and Officer Walters?

15 A. Officer Walters at the time was pretty  
16 much in full fight with Mr. Williams. Mr.  
17 Asher came up to assist with that. However,  
18 like I said, when he made an attempt to assist  
19 that's when he was grabbed him from behind.

20 Q. And Mr. Williams was seriously injured  
21 during that; correct?

22 A. He had to be taken out.

23 Q. In fact, he had to be taken to the  
24 hospital for treatment; right?

25 A. Yes, sir.



1 Q. And then he was brought back to the  
2 Detention Center and later saw a nurse there,  
3 correct?

4 BRUCE DURANT: Irrelevant, Your  
5 Honor

6 THE COURT: Sustained.

7 CROSS EXAMINATION CONTINUED

8 BY MR. CARROLL:

9 Q. And it was during this incident when all  
10 these officers were on Mr. Williams, that Mr.  
11 Dickerson started pulling Officer Asher away?

12 A. Like I said, Officers Walters and I were  
13 helping and Mr. Asher came to assist; however,  
14 he was coming to assist and he was not able to  
15 because, like I said, he was grabbed by Mr.  
16 Dickerson from behind.

17 Q. During this routine procedure -- there's a  
18 video recording system in Unit 1A; is there  
19 not?

20 A. Yes, sir.

21 Q. To your knowledge was any video made of  
22 this incident?

23 A. Not to my knowledge.

24 Q. And in the event that the hard-wired video  
25 system in that room fails, there's also a hand-

1 held camera available, correct?

2 A. What do you mean by hard-wired camera?

3 Q. I mean one that's wired into the building.

4 A. Oh. Yes, sir.

5 Q. There's one of those and then there's a  
6 hand-held camera that you can use also.

7 A. Yes, sir.

8 Q. And that wasn't used either, was it?

9 A. At that time it wasn't necessary for a  
10 camera for that search.

11 Q. So the answer to my question would be no,  
12 the camera wasn't used?

13 A. (Affirmative nod)-- no, sir.

14 Q. And at no point did anybody in this event  
15 shut the door and lock the inmates inside the  
16 cell?

17 A. At this point it all happened so quickly,  
18 sir.

19 MR. CARROLL: Beg the Court's  
20 indulgence.

21 THE COURT: Certainly.

22 MR. CARROLL: Nothing further, Your  
23 Honor.

24 THE COURT: Redirect?

25 BRUCE DURANT: I've got a couple

1 of questions.

2 REDIRECT EXAMINATION

3 BY BRUCE DURANT:

4 Q. What do you'all use the hand-held camera  
5 for?

6 A. Sir?

7 Q. What do you'all use the hand-held video  
8 camera at the detention center for?

9 A. Whenever we go out to the sally port for a  
10 situation where they need assistance or if we  
11 are actually going to do predetermined  
12 searches.

13 Q. Had you gone to this cell, 1236A to do a  
14 pre-determined search?

15 A. No, sir.

16 Q. When Mr. Dickerson jumped on the detention  
17 officer's back, did you tell the other officers  
18 to wait so that you could go get the security  
19 camera?

20 A. No, sir.

21 Q. One other question. He asked you  
22 something about just being able to shut the  
23 door to the cell. If that was the case, why  
24 couldn't you just shut the door to the cell?

25 A. Because everything happened so quickly and

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

3608

1 he grabbed that officer. The officers that  
2 were present, we were trying ---

3 Q. You'all were trying to engage with Mr.  
4 Dickerson outside the cell?

5 A. Yes, sir.

6 Q. Thank you. I have nothing further.

7 THE COURT: Recross?

8 MR. CARROLL: Just briefly, Your  
9 Honor.

10 RECROSS EXAMINATION

11 BY MR. CARROLL:

12 Q. The hard-wired video system, that's there  
13 to record everything, not just extraction?

14 A. That's to view the unit.

15 Q. And inexplicably, there's no video of that  
16 unit to your knowledge; correct?

17 A. Sir?

18 Q. And inexplicably there's no video from  
19 that unit that day, to your knowledge; correct?

20 A. Not that I am aware of.

21 MR. CARROLL: Thank you.

22 THE COURT: You may come down, Ms.  
23 Williams. Thank you very much.

24 THE WITNESS: You're welcome.

25 THE COURT: Do you wish this witness

1 to be excused, Solicitor?

2 BRUCE DURANT: Yes, Your Honor.

3 THE COURT: Any objection?

4 MR. CARROLL: None, Your Honor.

5 THE COURT: You are also free to  
6 leave.

7 (WITNESS EXCUSED)

8 THE COURT: Call your next witness.

9 RUTLEDGE DURANT: The State calls  
10 Michael Huggins.

11 (WITNESS TAKES STAND)

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

15 DIRECT EXAMINATION

16 BY RUTLEDGE DURANT:

17 Q. Good afternoon, Mr. Huggins.

18 A. Good afternoon.

19 Q. Please tell the jury where you are  
20 employed.

21 A. Charleston County Detention Center.

22 Q. And how long have you been employed at the  
23 Charleston County Detention Center?

24 A. Two years.

25 Q. What is your role at the Charleston County

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.

3610

1 Detention Center?

2 A. I'm a tactical officer.

3 Q. What are your duties and responsibilities  
4 there?

5 A. We are currently running operations in 1A.  
6 We house mental health inmates, disciplinary  
7 inmates and suicidal inmates.

8 Q. I want to direct your attention to  
9 December the 7<sup>th</sup> of 2008. Do you remember an  
10 incident involving the Defendant William  
11 Dickerson?

12 A. Yes, sir.

13 Q. What was going on that day before that  
14 incident started?

15 A. Officer Asher, Officer Williams and  
16 Officer Walters were conducting cell searches  
17 while I was at the desk which is located at the  
18 front of the unit, doing cell searches.

19 Q. What attracted your attention?

20 A. I'd opened the door to cell 1236A where  
21 Inmate Dickerson was housed. I heard a  
22 commotion going on and I looked up and that's  
23 when Inmate Williams came charging Office  
24 Walters. Then I saw Officer Williams and  
25 Officer Asher go to assist Officer Walters.

1 Inmate Dickerson came up behind Officer Asher,  
2 picked him up and slammed him to the ground.  
3 That's when I got up from behind the desk, ran  
4 down to assist them in taking Inmate Dickerson  
5 down.

6 Q. And how did you do that?

7 A. I grabbed him by his waist and took him to  
8 the ground. When we went to the ground I  
9 actually landed on my back and he landed on top  
10 of me.

11 Q. Were you inside the cell?

12 A. No, we were outside the cell.

13 Q. And who was with you outside the cell at  
14 this point?

15 A. Officers Williams, Asher and Walters.

16 Officer Walters was currently engaged in  
17 bringing Inmate Williams down.

18 Q. What happened when Mr. Dickerson took you  
19 to the ground?

20 A. He landed on top of me and then he tried  
21 to grab me around my throat and choke me. He  
22 was successful in getting his arms around me  
23 but he wasn't able to get a full latch on my  
24 neck. Mr. Williams was at his feet, pulling  
25 his feet from under him so he could not get his

1 weight on top of me.

2 Q. What did he put on your neck?

3 A. He put his arms around my neck. Had one  
4 arm here and one arm was underneath the other  
5 arm and tried to tighten up.

6 Q. And how did that feel?

7 A. He was cutting off the circulation.

8 Q. So what eventually happened?

9 A. Eventually Ms. Williams was able to keep  
10 him from getting on top of me. I was able to  
11 push from underneath him with my legs and able  
12 to get above him and able to get my hands on  
13 him.

14 Q. And was he eventually able to be  
15 restrained?

16 A. Yes.

17 Q. Did you receive any injuries as a result  
18 of this altercation?

19 A. Yes. As I pulled from underneath him my  
20 knee popped out of place.

21 Q. Did that result in any kind of condition?

22 A. Yes, I had to have surgery in February.

23 Q. Were you able to return to work?

24 A. Not immediately. I was out for the month  
25 of February and then I came back on March 9<sup>th</sup>,



1 and I've been on light duty ever since.

2 RUTLEDGE DURANT: Thank you, sir.

3 Please answer any questions the defense may  
4 have.

5 THE COURT: Cross examine.

6 MR. BLOOM: May it please the Court.

7 CROSS EXAMINATION

8 BY MR. BLOOM:

9 Q. Officer Huggins, isn't it true this  
10 dispute started because it appeared to you and  
11 the other officers that Inmate Williams and  
12 Inmate Dickerson weren't coming out of the cell  
13 fast enough to suit you'all? Is that correct?

14 A. That I can't answer because I was at the  
15 desk.

16 Q. You were at the desk?

17 A. Yes.

18 Q. And didn't some of the officers present  
19 right there within your hearing start cursing  
20 them and taunting them?

21 A. No.

22 Q. You didn't hear any of that?

23 A. No, sir.

24 Q. Isn't it correct one of the officers said,  
25 'Hey, you two girlfriends, get your behinds out

1 of the cell' or something to that effect?

2 A. Once again, I can't say because I was at  
3 the desk.

4 Q. So you don't know anything about your  
5 fellow officers there at the door verbally  
6 instigating this or turning this into ---

7 THE COURT: Hold on a second. Wait  
8 a minute. Approach, please, Mr. Bloom.

9 (OFF RECORD BENCH CONFERENCE)

10 CROSS EXAMINATION CONTINUED

11 BY MR. BLOOM:

12 Q. Officer, let me ask you next, I think you  
13 told us here today -- you gave a statement in  
14 this incident; correct?

15 A. Yes, sir.

16 Q. At any time during the altercation between  
17 an inmate and officer there's an investigation  
18 into the situation; correct?

19 A. Yes.

20 Q. And the officers involved give statements;  
21 correct?

22 A. Yes, sir.

23 Q. And you usually give it within a day or  
24 two of the incident while your memory is fresh  
25 and still on track as to what you recollect;

1 correct?

2 A. Yes, sir.

3 Q. Isn't it correct in your statement there's  
4 nothing about a choke hold?

5 A. That's correct. In my statement there's  
6 nothing about me being injured or taken to the  
7 hospital either. I was in so much pain the day  
8 I gave it I had to write a brief summary of  
9 what happened. I was not able to put full  
10 details into my statement.

11 Q. Yes, sir. But an allegation that an  
12 inmate puts a choke hold on a detention  
13 officer, that's a fairly serious allegation;  
14 would you not agree?

15 A. Yes, sir.

16 Q. And the first time you said that is here  
17 in this courtroom; correct?

18 A. Yes, sir.

19 Q. That's nowhere in your written statement;  
20 correct?

21 A. Yes.

22 Q. And you're at the Detention Center five  
23 days a week, I take it, as a full-time  
24 employee?

25 A. Right now I'm on light duty.

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.

3616

1 Q. And you could have amended or supplemented  
2 your statement; correct?

3 A. Correct, a day later.

4 Q. You could have supplemented it at any  
5 time. You could have done that at the follow-  
6 up hearing where the inmate is disciplined  
7 internally; correct?

8 A. Correct, but I did not return to work  
9 right away.

10 Q. I understand that. When did you return to  
11 work?

12 A. I don't know when our next day started for  
13 the shift. I was transported straight to  
14 Roper.

15 Q. So you reported to work within several  
16 days after that?

17 A. Yes, sir.

18 Q. So you weren't hospitalized for like  
19 weeks?

20 A. No, sir.

21 Q. And since that time -- let me go back.  
22 There was a hearing where the inmate was  
23 disciplined; correct?

24 A. Yes.

25 Q. The hearing officer at the Detention

1 Center, you know wants all the information  
2 available at their fingertips so they can  
3 decide what disciplinary action is going to be  
4 taken; correct?

5 A. Yes.

6 Q. And at no time from the incident up until  
7 that hearing and until today did you ever say  
8 anything to anyone about a choke hold. Isn't  
9 that correct?

10 A. Not in a statement.

11 MR. BLOOM: The Court's indulgence.

12 THE COURT: Certainly.

13 CROSS EXAMINATION CONTINUED

14 BY MR. BLOOM:

15 Q. Officer Huggins, you're aware that there  
16 is a video camera in the ceiling of that unit  
17 which records the activities in there; correct?

18 A. Yes, sir.

19 Q. And that's there for security and safety  
20 and a whole host of reasons; correct?

21 A. Yes, sir, but we do not control the  
22 camera.

23 Q. And then for some reason that day you know  
24 that it was not working from approximately  
25 10:00 to 11:45 a.m. when this incident

1 occurred?

2 A. No, sir, I don't know. We do not control  
3 that camera.

4 Q. You're not aware of any video that was  
5 made of this incident. Is that fair to say?

6 A. (Affirmative nod), not that I know of.

7 MR. BLOOM: Court's indulgence.

8 THE COURT: Certainly. Take your  
9 time.

10 MR. BLOOM: Thank you very much. No  
11 further questions.

12 THE COURT: Redirect.

13 REDIRECT EXAMINATION

14 BY RUTLEDGE DURANT:

15 Q. Is Cellblock 1A the area that houses  
16 inmates with the highest level of physical  
17 involvement?

18 MR. BLOOM: I'm going to object to  
19 that, Your Honor, and ask to take up a matter  
20 of law. That's totally improper.

21 THE COURT: Ladies and gentlemen,  
22 I'll let you go to your jury room for just a  
23 moment. Don't begin your deliberations. Don't  
24 discuss this case among yourselves.

25 (JURY OUT @ 3:25 P.M.)

1 THE COURT: Mr. Bloom?

2 MR. BLOOM: Your Honor, in *State v.*  
3 *Burkhart* our Court has firmly said that certain  
4 criminal positions are not admissible for any  
5 purpose. There's a fine line between the State  
6 needing to show appropriate evidence regarding  
7 conduct as well as the Defendant's right to  
8 prevent that introduction.

9 For the Solicitor getting to ask or  
10 attempting to ask if Unit 1A is for inmates who  
11 have high levels of disciplinary conduct is  
12 wholly improper under *Burkhardt*.

13 First of all, that's not something Mr.  
14 Dickerson had any control over, what other  
15 inmates were housed there for. He was housed  
16 there obviously. But that's not appropriate,  
17 given those types of conditions. He's not in  
18 control of that.

19 Indeed, up until this point there had  
20 not been a single assault of another officer or  
21 staff member. I strongly object to that line  
22 of questioning under *Burkhardt* as well as under  
23 16-3-25 of the South Carolina Code.

24 THE COURT: Thank you. Response?

25 SOLICITOR WILSON: Your Honor,

1     that specific question was in response to the  
2     cross examination of Mr. Bloom where he crossed  
3     this witness on basically why he didn't include  
4     information or alter his report so that other  
5     disciplinary decisions could be carried out  
6     against this Defendant. The fact of the matter  
7     is he was already at the highest level that he  
8     could be.

9             I think he opened the door to that.  
10    In addition, it was a question that hasn't been  
11    answered. And finally, I object to the  
12    speaking objection. We've done very well  
13    throughout this trial and we haven't had the  
14    necessity for that kind of commentary.

15            THE COURT:     Thank you, Solicitor.  
16    We're all getting tired and testy a little bit,  
17    understandably. But let's continue to use the  
18    objection with one word and we'll make the  
19    arguments outside the presence of the jury.  
20    That's noted, and I don't think we'll have any  
21    more problems with that.

22            It's -- why it was stopped before is  
23    because it opens Pandora's Box. We have a  
24    multitude -- he could housed there because he's  
25    being charged and being on trial for his life.



1 I mean, there are any number of reasons why  
2 he's in that setting. So it's inappropriate.  
3 It's an inference that it's improper. There  
4 are some cases where it's created reversible  
5 error. So you can't do that.

6 SOLICITOR WILSON: Judge, I just want  
7 to make ---

8 THE COURT: It's not in response to  
9 a question about why he didn't make a report.  
10 He's answered the report. He said he went for  
11 medical treatment. He responded. It didn't  
12 have anything to do with where he was. I  
13 appreciate it. There's no need to go into  
14 that. You just don't need that.

15 SOLICITOR WILSON: I hear you. I  
16 just want the record to be clear as to what our  
17 reasoning was.

18 THE COURT: I understand your  
19 reasoning. I'm just not going to allow it. I  
20 mean it doesn't matter.

21 SOLICITOR WILSON: Okay.

22 THE COURT: So withdraw that  
23 question. I'll tell the jury to disregard the  
24 question when they come back and we'll go from  
25 there. Okay? Although to be honest with you,

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

3622

1 it came out unsolicited in the first witness  
2 who testified.

3 SOLICITOR WILSON: And this  
4 witness.

5 THE COURT: I understand. So it's  
6 there, but we're not going to heighten that.

7 SOLICITOR WILSON: Sure. Judge,  
8 this will be our last witness for the day. The  
9 next witnesses we have are -- there's one  
10 matter of law that we have after that.

11 THE COURT: We don't have any more  
12 that we can call?

13 SOLICITOR WILSON: No, sir.

14 THE COURT: All right. Let's take  
15 about five minutes then before we start back.  
16 Before we do that, we had a sidebar concerning  
17 an objection to a line of questions from Mr.  
18 Bloom. We want to put that on (the record) as  
19 well. It was the Court's opinion and feeling  
20 that the questions were getting close to going  
21 into the area that I had purposely tried to  
22 carve out of this, and that is some of the  
23 assertions about which we've taken -- about  
24 which we've taken an abundance of testimony  
25 concerning what precipitated certain actions on

1 the part of the inmates as well as the  
2 officers. As I believe I narrowed this to an  
3 action that needed simply -- we asked the  
4 questions about coming to the defense of  
5 somebody. I understand that and I think that's  
6 fair game. But that was the issue of whether  
7 this person should have responded and subjected  
8 himself to the fray when he didn't have to.  
9 But there really wasn't -- we didn't get into  
10 the area that you had asked a couple of  
11 questions which were borderline about provoking  
12 his attack, and I didn't stop that. But that's  
13 as far as I wanted that to proceed.

14 Also, you had mentioned in the sidebar  
15 that you had a disciplinary matter concerning  
16 Mr. Huggins that you possibly wanted to explore  
17 concerning anger management, I think you said.  
18 And my rationale for that was that this witness  
19 was really on the periphery of everything and  
20 he only involved after the altercation  
21 occurred. Therefore, I think the prejudice  
22 outweighs any probative value as to any of the  
23 issues that we are trying. So I assume you  
24 don't want to proffer that line of questioning  
25 to this witness now?

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.

3624

1 MR. BLOOM: Not after the Court's  
2 ruling.

3 THE COURT: You're okay with not  
4 pursuing that then?

5 MR. BLOOM: Yes, sir.

6 THE COURT: Thank you. Let's take  
7 about five minutes. Anything else we need to  
8 supplement concerning the bench conference?

9 SOLICITOR WILSON: No, sir. I think  
10 we'll be through with this witness and then ---

11 THE COURT: I hate for him to sit  
12 for just a minute.

13 SOLICITOR WILSON: I'm just saying  
14 we could let the jury go.

15 THE COURT: Okay, well, that's a  
16 good idea. I am just thinking out loud.

17 If you want to do that, that's good.  
18 I'm not thinking out loud. Let the jury come  
19 in.

20 I assume you're not going to have any  
21 more questions? And since that's withdrawn,  
22 there's no re-cross; correct?

23 MR. BLOOM: I'm done.

24 (JURY IN @ 3:32 P.M.)

25 THE BAILIFF: The jury is present,

1 Your Honor.

2 THE COURT: Thank you, please be  
3 seated. Thank you. I sustained the objection,  
4 and you will disregard the question. We know  
5 that's part of the process. I sustained that,  
6 so that's not a matter for your consideration  
7 when you do begin your deliberations.

8 As I understand, Mr. Durant, you have  
9 no further questions.

10 RUTLEDGE DURANT: That's correct,  
11 Your Honor.

12 MR. BLOOM: Nothing further, Your  
13 Honor

14 THE COURT: Thank you, Mr. Huggins,  
15 you may step down.

16 (WITNESS STEPS DOWN)

17 THE COURT: All right, Ladies and  
18 gentlemen, there are several matters of law  
19 that I need to discuss out of your presence  
20 before we hear the next witness. There may be  
21 some length to this discussion. So I'm sorry  
22 to inform you that you're going to get an early  
23 day, and you'll get to stop a little early.

24 So that you will feel comfortable, we  
25 will complete this case this week. It's not

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.

3626

1 going to be a matter that will go on into  
2 another week. This case will be to you and  
3 your services resolved by the end of the week.  
4 I'm confident of that. So it's not a matter  
5 that we would be carrying it out. I hope  
6 you'll enjoy the afternoon and relax. We've  
7 gone through sixteen witnesses today, so that's  
8 good. Thank you for your attention. Have a  
9 good evening.

10 Please remember that you are not to  
11 watch anything, watch any news programs.  
12 You're not to read any accounts. Certainly you  
13 must continue not to talk with anyone or permit  
14 anyone to talk with you. Have a good evening  
15 and be in your jury room at 9:30 in the  
16 morning. Thank you very much.

17 (JURY OUT @ 3:35 P.M.)

18 THE COURT: Thank you. Please be  
19 seated. Have they gotten all of the mold out  
20 of this building? My eyes just burning. I  
21 don't believe all the mold is out of this  
22 building. When I'm in here, my eyes just  
23 starting going -- crazy.

24 All right, before we get into any matters  
25 from the State you want to get into the

1 photographs?

2 SOLICITOR WILSON: No, sir, just  
3 those. Then I also have several of the victim  
4 for victim impact that we need to address.

5 THE COURT: Have you shared those  
6 with them at this point?

7 SOLICITOR WILSON: They have not  
8 seen them.

9 THE COURT: Why don't you'all talk  
10 about that? You've looked at the photographs?

11 MR. BLOOM: I've looked at the  
12 photographs she has handed up and you have in  
13 your hand.

14 THE COURT: Let's take about five  
15 minutes or so and then we'll come back and  
16 we'll take up those matters. Thank you. We'll  
17 be at ease.

18 (BRIEF RECESS)

19 (DEFENDANT PRESENT)

20 SOLICITOR WILSON: If we could go  
21 on just for a second.

22 THE COURT: Sure.

23 SOLICITOR WILSON: Judge, I've  
24 handed up a number of pictures over the break.  
25 And, uh, just as we came in the Court asked me

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.

3628

1 if I was intending to offer all of them. I've  
2 taken some out. And for the record, I will  
3 withdraw these exhibits, but I'd like for them  
4 to still be a part of the record.

5 THE COURT: Sure. No problem.

6 SOLICITOR WILSON: State's 157,  
7 163.

8 THE COURT: These are for I.D. only,  
9 I think.

10 SOLICITOR WILSON: Right. 179,  
11 180, 182, 183, 165, 166, and 168. There are  
12 several of those that I think I can get through  
13 other pictures without being redundant.

14 COURT REPORTER: For identification.

15 THE COURT: Okay.

16 SOLICITOR WILSON: The pictures of  
17 the eyes, I don't think -- I think that's  
18 probably a little much, the ones of the eyes.  
19 There is another grouping that -- State's 140,  
20 141, 142 which -- and 143, which are all  
21 pictures, photographs of the victim's rectal  
22 area. I don't believe I need all of these. I  
23 do believe I need one.

24 THE COURT: Pick the one that you --  
25 I would agree with you, I think that while



1 obviously it's extremely inflammatory in many  
2 ways it obviously goes to the issue of the  
3 torture issue for sure. I think it's  
4 probative. I'll see which one you're picking.

5 SOLICITOR WILSON: 141 would be  
6 the one I would pick, and I'll need to consult  
7 with Dr. Schandl on it to make sure it shows  
8 what I think it shows.

9 THE COURT: Okay.

10 SOLICITOR WILSON: That's this  
11 one, (displaying State's Exhibit 141), and that  
12 corroborates her testimony regarding the  
13 abscess and which gets into the torture and the  
14 eighteen hours. I believe that will be the  
15 best one to show that.

16 THE COURT: All right.

17 SOLICITOR WILSON: And then the  
18 ones that we would forego, if we're going to be  
19 just picking one, would be - we would then not  
20 offer State's 140, 141, 142 and 143. Unless  
21 for some reason, and we'll know this in advance  
22 -- she tells us that -- that doesn't show what  
23 I thought it shows.

24 THE COURT: All right.

25 SOLICITOR WILSON: Your Honor,

1 State's 176 and 181 are a little bit redundant.

2 And I think 181 gives a better view of the  
3 overview of the head. So I would forego 176.

4 THE COURT: Okay.

5 (SO ENTERED AS STATE EXHIBIT 181)

6 SOLICITOR WILSON: I'm trying to  
7 do ones that the Court might think are  
8 redundant.

9 THE COURT: That's fine.

10 SOLICITOR WILSON: I don't believe  
11 that State's 175 and 335 are redundant. But  
12 because State's 175 shows the face and this  
13 area after shaving, State's 335 would be the  
14 condition the victim was in.

15 THE COURT: I think that picture,  
16 335, has more probative value for that purpose  
17 than the other one.

18 SOLICITOR WILSON: So 175 would  
19 not be offered. 335 would.

20 (SO ENTERED AS STATE'S EXHIBIT 335)

21 THE COURT: Let me ask you, Mr.  
22 Bloom, do you object to all photographs?

23 MR. BLOOM: I think it's incumbent  
24 upon me to do so.

25 THE COURT: Okay. We've clearly

1 recognize that in a number of situations. I've  
2 read through most of the notes again, and I've  
3 found that that's pretty much consistent with  
4 the Court's decisions time and time again. But  
5 I understand your objection and it is noted,  
6 for various reasons.

7 SOLICITOR WILSON: Judge, we would  
8 seek State's 177 and 178, which are the right  
9 side and then the left side, and then going  
10 through the victim's injuries showing the  
11 injuries he sustained. We don't have these  
12 photographs at the crime scene. I think these  
13 actually are less gory when he's been cleaned  
14 up.

15 THE COURT: She's going to testify  
16 to the various markings that we see and the  
17 significance of them?

18 (SO ENTERED AS STATE'S EXHIBITS 177)

19 (SO ENTERED AS STATE'S EXHIBIT 178)

20 SOLICITOR WILSON: Right. And then  
21 State's 166 and 167, again one is further away  
22 and one is closer up. I don't need both, but I  
23 do need one.

24 THE COURT: Why don't you take the  
25 one that shows -- that shows more information

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

3632

1 on it; doesn't it?

2 SOLICITOR WILSON: Okay. 166.

3 THE COURT: Number 166.

4 (SO ENTERED AS STATE'S EXHIBIT 166)

5 SOLICITOR WILSON: So we will  
6 forego State's 167.

7 THE COURT: Right.

8 SOLICITOR WILSON: And that's a  
9 similar situation, I believe, in 153 and 154.  
10 I think I can get out of 153.

11 THE COURT: I think 153 shows really  
12 more evidence and is more probative than the  
13 other. Both of those seem to focus on  
14 something that's not necessarily the issue.

15 (SO ENTERED AS STATE'S EXHIBIT 153)

16 SOLICITOR WILSON: Number 336 is a  
17 photograph of the victim's back which the  
18 pathology will testify regarding -- we heard a  
19 little bit about this in the guilt phase -- but  
20 regarding the types of injuries that we see  
21 across his back. Again, there's very little  
22 blood or internal tissue showing in that one.

23 THE COURT: Okay.

24 (SO ENTERED AS STATE'S EXHIBIT 336)

25 SOLICITOR WILSON: 161 and 162 are

1 shots of both the right and left arms.

2 THE COURT: Okay.

3 SOLICITOR WILSON: On 161 you can see  
4 the area regarding the break in the wrist. And  
5 then you can see various cuts in State's 162 in  
6 different arms.

7 (SO ENTERED AS STATE'S EXHIBIT 161)

8 (SO ENTERED AS STATE'S EXHIBIT 162)

9 SOLICITOR WILSON: State's 169, what  
10 I was trying to show is another part of the  
11 arm, again going to the torture aspects, where  
12 there are cuts that would not be life-  
13 threatening. And I just wanted to be able to  
14 show that area of the victim's arm.

15 THE COURT: Is that shown in other  
16 pictures?

17 SOLICITOR WILSON: I don't think  
18 -- the other ones, I believe, were underneath.

19 THE COURT: I think they were.

20 SOLICITOR WILSON: So this is of  
21 the forearm.

22 THE COURT: Okay.

23 SOLICITOR WILSON: I'm fine with  
24 either one, and I can crop this if you choose  
25 160?

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.

3634

1 THE COURT: Let's crop it.

2 SOLICITOR WILSON: So we'll forego  
3 169.

4 THE COURT: And there is no  
5 objection to altering the picture that has been  
6 marked?

7 MR. BLOOM: No, sir, not to altering  
8 it in that respect. I would still reserve out  
9 objection.

10 THE COURT: Absolutely, I understand  
11 that.

12 (SO ENTERED AS STATE'S EXHIBIT 160)

13 SOLICITOR WILSON: I don't believe  
14 we need State's 170. State's 171 and 172 are  
15 the top of the victim's hands. And I think  
16 these as well as another one that's coming up,  
17 173, show the struggle of the victim,  
18 especially the broken nails, bloody nails and  
19 the cuts that were on the hands, especially in  
20 light of some of the co-defendant's testimony  
21 that he was just kind of there. I think  
22 State's 171, 172 and 173 are very probative as  
23 to him fighting for his life.

24 (SO ENTERED AS STATE'S EXHIBIT 171)

25 (SO ENTERED AS STATE'S EXHIBIT 172)

1 (SO ENTERED AS STATE'S EXHIBIT 173)

2 THE COURT: Okay.

3 SOLICITOR WILSON: Your Honor,  
4 there was testimony regarding a burn to the  
5 scrotum. State's 184 is a photograph of that  
6 burn. I know that's an ugly picture, but I  
7 believe it's also probative.

8 (SO ENTERED AS STATE'S EXHIBIT 184)

9 SOLICITOR WILSON: I believe we've  
10 already got other pictures of the legs, so  
11 we'll forego State's 164, 165 and 168.

12 There's one left that I want to ask  
13 the pathologist about. It's not a gory  
14 picture, but I just noticed as I was putting  
15 these together the concave area of the victim's  
16 abdomen. It may just be the way he was lying  
17 and rigor. I don't know if there's some  
18 significance -- that you see right there  
19 (indicating).

20 THE COURT: I see that.

21 SOLICITOR WILSON: I just want to ask  
22 her about that and see if there's anything  
23 probative as to that.

24 THE COURT: That's fine.

25 COURT REPORTER: That number is?

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.

3636

1 SOLICITOR WILSON: That would be  
2 159.

3 (SO ENTERED AS STATE'S EXHIBIT 159)

4 SOLICITOR WILSON: We tried to  
5 select photographs that were not redundant and  
6 that would be probative as to the torture and  
7 to the circumstances outside of torture, even  
8 the circumstances of the victim's death and the  
9 characteristics of the Defendant inflicting  
10 these types of wounds.

11 THE COURT: Okay. Let me see the  
12 photographs in collection again.

13 SOLICITOR WILSON: That's the one  
14 (State's Exhibit 159) in question.

15 THE COURT: You've had a chance to  
16 view these photographs?

17 MR. BLOOM: I have, yes, sir.

18 THE COURT: I'll be happy to hear  
19 from you.

20 MR. BLOOM: Your Honor, our  
21 objection is that there are fifteen photo-  
22 graphs, if I counted correctly. We submit  
23 that's excessive and tends to become more  
24 prejudicial than probative as well as  
25 introducing essentially arbitrary and



1 capricious evidence. They're color photo-  
2 graphs, glossy. They're not the standard four-  
3 by-six. They're blow-ups of approximately ten  
4 inches to twelve inches. They are, in our  
5 view, excessive.

6 And I point out, in our cross  
7 examination of Dr. Schandl regarding the  
8 autopsy we never touched on any of the wounds.  
9 So the State is attempting to use photographs  
10 to prove testimony -- and I presume additional  
11 testimony by Dr. Schandl -- that has not been  
12 contested in any manner whatsoever. I think  
13 that the photographs of the rectal area and the  
14 scrotum are particularly prejudicial and  
15 offensive. And the sheer accumulation of  
16 photographs, it's not a mere one or two or  
17 three or four. There's fifteen or so, so it  
18 becomes cumulative and prejudicial at this  
19 juncture.

20 I particularly note again where we  
21 have not contested Dr. Schandl's testimony and  
22 the way she described it. Indeed the -- Dr.  
23 Schandl, I think, was able to use black-and-  
24 white charts and graphs and drawing during her  
25 testimony to describe the injuries. Giving the

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

3638

1 jury photographs such as this would have the  
2 effect of inflaming the jury causing more  
3 passion and prejudice. Thank you.

4 THE COURT: Thank you. Do you wish  
5 to be heard?

6 SOLICITOR WILSON: Judge, again,  
7 when you look -- I was really hoping to stay  
8 away from this arbitrary number of whether it's  
9 two photos or five photos or fifteen photos.  
10 What we're trying to do is to introduce photos  
11 that are probative as to the nature of the  
12 crime, the nature of the torture. The victim  
13 sustained extreme injuries, and I think there's  
14 going to be extreme evidence regarding those  
15 injuries.

16 I know that in the *Franklin* case there  
17 were seventeen photographs. But all that --  
18 picking a number out of the blue, I don't think  
19 that's what it is. We pared them down. We had  
20 them blown up and what I hope is, if I can get  
21 it going, is that we don't have to put it up on  
22 the big screen. What I want to do and the  
23 reason I had them blown up is so that I can try  
24 to have the pathologist go over these things  
25 with the photos on an easel instead of having

1     them blow up to, you know, four feet by six  
2     feet. And we're going to try that in the  
3     morning.

4             I think in light of the over two  
5     hundred -- over two hundred wounds that this  
6     victim sustained that these photos aren't over  
7     the top and will be done as "tastefully" as we  
8     can do them, while still showing the jury what  
9     the victim sustained and the character of the  
10    Defendant as indicated by such brutality.

11            THE COURT:     Okay. Anything further,  
12    Mr. Bloom?

13            MR. BLOOM:     Nothing further, Your  
14    Honor.

15            THE COURT:     Thank you very much.  
16    Obviously, the Court has been confronted, as I  
17    mentioned, on numerous occasions with this  
18    topic. I agree we really don't get into the  
19    counting. I think the key and what I'm  
20    required to do in balancing the proof aspects  
21    that the State's entitled to in this bifurcated  
22    proceeding is to make sure that the photographs  
23    are not unfairly prejudicial so as to outweigh  
24    the probative value, which then makes the  
25    decision based more on emotional decisions than

1 on the substantive decision.

2 We have excluded a number of photo-  
3 graphs, and we've tried, and I think fairly --  
4 to the extent it's proper, I won't say that  
5 there are not parts of the body shown in other  
6 photographs. But each photograph, and while  
7 there are this many, it just shows the  
8 extensive injury that this person inflicted on  
9 the victim. I don't know any other way to  
10 present it than to do this.

11 The photographs are not in the fashion  
12 that have been ruled to be inadmissible and an  
13 error in *Franklin* and in *State v. Franklin*,  
14 one, *State v. Gary Patrick* where there was a  
15 tremendous amount of blood present, something  
16 gory that would be neither as noted in *John*  
17 *Babe Ray v. State*, no error in admission of  
18 eleven color photographs or copies of autopsy  
19 photos of the victim depicting the body in a  
20 cleaned-up state. And that's clearly where we  
21 are, which I think if there is such a thing as  
22 being tasteful, it's as tasteful as it can be  
23 given the circumstances and the subject matter.

24 I find the photographs that we have  
25 probative to the issue of -- many issues, the

1 character of the Defendant, the circumstances  
2 of the crime, and the one part that still  
3 remains; that is, the torture aspect for this  
4 victim. This probably sets it out as clearly  
5 as anything I can imagine as to what this  
6 person may have had to endure. And we're going  
7 to have somebody -- a competent person who's  
8 going to describe what's taken place.

9           So it clearly becomes -- while it  
10 certainly has some emotional impact, the  
11 substantive part is very -- I think when you  
12 take these photographs in conjunction with the  
13 testimony of the pathologist it becomes  
14 extremely probative. I don't find it to be  
15 cumulative. I think the numbers speak for the  
16 number of injuries, not the numbers of  
17 photographs. So for all those reasons, your  
18 objection is noted and the basis protected. I  
19 will admit these photographs that we have.

20           You've already called them out, or do  
21 you want me to run through them again? And  
22 we'll just go ahead and have them marked. When  
23 she identifies them we'll introduce them,  
24 subject to the objection. But each time we can  
25 -- we'll do it however you feel more

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.

3642

1 comfortable, Mr. Bloom. If you want to restate  
2 your objection or we'll just note that the  
3 objection is to each of these photographs that  
4 will be shown to Dr. Schandl there will be a  
5 running objection to each one of them.

6 MR. BLOOM: I accept the latter.

7 THE COURT: And I'll just simply say  
8 they're admitted subject to objection of  
9 counsel. And I think that will cover it.

10 MR. BLOOM: Thank you.

11 THE COURT: Thank you, Solicitor.

12 SOLICITOR WILSON: Thank you.

13 Judge, also, in another vein as far as the  
14 photographs go, I showed Mr. Bloom a board that  
15 the family had created for the victim at the  
16 funeral. I believe Mr. Bloom's objection is the  
17 number of photos and its cumulative -- I don't  
18 want to speak for him.

19 MR. BLOOM: Well, several  
20 objections. One, again, it's more prejudicial  
21 than probative. There are thirty photos on the  
22 poster board. And I understand the poster  
23 board was, in fact, a memorial at the funeral  
24 service. My objection goes to the nature of  
25 that as well, especially to some thirty-five

1     photos as being cumulative.  It's extremely  
2     prejudicial to the jury and it's not intended  
3     to admit anything that the State -- it just  
4     appeals to the passion and prejudice of the  
5     jury.  *Payne v. Tennessee* has some limits to  
6     it, too.  It is not intended to admit anything  
7     that the State wants covered but it seems to me  
8     to be excessive.

9                 THE COURT:     That's where I thought  
10     we had the best way to contain this, that it  
11     was a better way to deal with this.  But  
12     clearly they've opened -- they've said that's  
13     permitted.  Where you draw the line, if you can  
14     point me to a case -- because I've looked for  
15     them and I haven't been able to find it -- that  
16     really gives you kind of a bright line test as  
17     to where 'this is over the line and this is  
18     not.'  I don't think there is.

19                I think, first of all, I would agree  
20     with you that there if there are persons --  
21     there will be no testimony about this being set  
22     up at his funeral.

23                SOLICITOR WILSON:     There doesn't have  
24     to be.

25                THE COURT:     I would like that not to

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

3644

1 be, because that then goes into something that  
2 doesn't need to be put into it. It's a collage  
3 showing this man's life. And, frankly, I think  
4 -- I don't find it unduly prejudicial. I find  
5 it kind of really to be a tasteful presentation  
6 of it. So if that -- we're not having any  
7 other photographs other than these, are we, of  
8 his life?

9 SOLICITOR WILSON: Your Honor,  
10 there are some that were not included -- just a  
11 couple that were more recent than these. Three  
12 others.

13 THE COURT: Are they different  
14 persons? I'm just looking at the one corner  
15 with the Navy -- the picture of him in his Navy  
16 uniform? Just different family members?

17 SOLICITOR WILSON: The victim and  
18 his mom, the victim with his mom and his aunt.  
19 I'm not sure who the two ladies are. The  
20 victim with his dad. The victim by himself.  
21 The victim with his mom and dad.

22 MR. BLOOM: Judge, if I may say  
23 this, and I don't mean to demean the victim,  
24 and please don't construe my objection as that,  
25 but the Solicitor is aware of the victim's Navy



1 record and that he received bad conduct  
2 discharge. The problem, I think, with putting  
3 the photographs of him in his Navy uniform  
4 really starts to border on a Napue violation,  
5 the Supreme Court, relaying misleading  
6 information to a jury. I know that is not the  
7 intent but it tends to border on that.

8 I don't want to have to get put in a  
9 position where I am forced to cross-examine a  
10 victim's family member to acknowledge that he  
11 received a bad conduct discharge. I know that  
12 I'm not put in that position.

13 THE COURT: Let me ask you a  
14 question, because I've not read that case, so I  
15 don't quarrel with the philosophy behind it --  
16 and excuse me for interrupting you. Does that  
17 case say that you can't do that because it puts  
18 the defendant in the position where they have  
19 to ask a very tough cross examination question?

20 MR. BLOOM: No, sir.

21 THE COURT: Okay.

22 MR. BLOOM: No, sir. *Napue v.*  
23 *Illinois* and its progeny are similar to *Brady*  
24 in that the jurors are not supposed to be  
25 presented with testimony that is known to be

1 misleading or inaccurate.

2 THE COURT: I agree with that. The  
3 photographs showing that, to me that's what  
4 cross examination is all about. It brings in  
5 the other part of this story. 'Well, you have  
6 some photographs, but isn't it a fact that he  
7 was dishonorably discharged.'

8 I know that's not a pleasant question  
9 to have to ask, but I don't think that makes it  
10 inappropriate because it's an unpleasant cross  
11 examination question.

12 I understand the setting, and that's  
13 one of the problems with this whole second  
14 phase. But the bottom line is you still have a  
15 right to challenge that photograph. So I don't  
16 think it -- I don't think -- if the inference  
17 to the jury is not complete, then there's  
18 something you chose strategically not to do.  
19 So I don't know that it creates -- I don't  
20 think it creates that he was -- let me give you  
21 -- this would be an extreme, but showing his  
22 metal, holding up his medals, then yeah I would  
23 agree with you. But this is a photograph of a  
24 person in uniform. Frankly looks like it's  
25 probably an entry level uniform is what it

1 appears to be.

2 I guess my question would be do you  
3 need all of the photographs showing basically  
4 the same setting?

5 SOLICITOR WILSON: No. We don't.

6 THE COURT: And if you could remove  
7 duplications, such as the photograph showing --  
8 for example, we don't need one with the mom and  
9 then one with the mom and aunt. Okay? That's  
10 just an example.

11 SOLICITOR WILSON: What I may have to  
12 do then, Judge, is abandon that. Because I  
13 don't want to destroy that.

14 THE COURT: I understand that. Go  
15 to Plan B.

16 SOLICITOR WILSON: Yeah. So there's  
17 that.

18 COURT REPORTER: Have those been  
19 premarked?

20 SOLICITOR WILSON: They have not  
21 been marked yet, I'll give them to you in just  
22 one second.

23 THE COURT: Those photographs, I  
24 don't have a problem with any of those. The  
25 photograph of the victim holding children, and

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

3648

1 then one of -- is that him in his band uniform?

2

3 SOLICITOR WILSON: Yes.

4 THE COURT: And a picture of him in  
5 a band uniform.

6 SOLICITOR WILSON: No objection to  
7 this?

8 MR. BLOOM: No, ma'am. We'll get  
9 these marked. I think we've agreed, Your  
10 Honor.

11 THE COURT: So we may not use the  
12 board, but use this then?

13 SOLICITOR WILSON: Yes.

14 THE COURT: That's good. That's  
15 safer. How many family members do you plan to  
16 have?

17 SOLICITOR WILSON: Two.

18 THE COURT: Good. That's where I  
19 will cut.

20 SOLICITOR WILSON: I don't think I  
21 need more.

22 THE COURT: And that's no problem.  
23 Two is fine. But when we start bringing in  
24 five and six family members talking about it, I  
25 think we've gone over the top. I don't know

1       that there's a magic number, but two is good.

2       I can live with two.

3             You anticipate your part to be completed  
4       before lunch?

5             SOLICITOR WILSON:       I was going to  
6       say 10:30.

7             THE COURT:       That's fine.

8             SOLICITOR WILSON:       But I don't  
9       think it'll take too long.

10            THE COURT:       You will be ready to  
11       call your first witness when they finish?

12            MR. BLOOM:       Yes, sir. We'll be  
13       ready to start tomorrow. We'll try to be  
14       prepared to go right up to 6:00 o'clock.

15            THE COURT:       Do you have a list of  
16       witnesses that you intend to call? Or are you  
17       calling everyone that you listed?

18            MR. BLOOM:       Probably not. We've  
19       culled that some. We'll still probably have  
20       somewhere in the neighborhood of twenty or so.  
21       A lot of them will be short witnesses. I've  
22       tried to prepare them. But we'll be prepared  
23       to go hopefully right up to 6:00 tomorrow and  
24       right until 6:00 Wednesday. I anticipate,  
25       depending on their cross examination,

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

3650

1 specifically of our expert witnesses, that we  
2 could conclude Wednesday by 6:00, or maybe  
3 spill over into Thursday morning. I don't  
4 think we'll go into Thursday morning, but would  
5 conclude Thursday by lunch and  
6 possibly/probably Wednesday by 6:00.

7 THE COURT: Let's keep moving and  
8 we'll move it as quickly as we can. Thank you  
9 very much. Anything else from the State before  
10 we recess?

11 SOLICITOR WILSON: No, sir. If I  
12 could just take those photos that are left so  
13 that I can get organized with those?

14 THE COURT: I don't think I have  
15 any. Okay. Anything from the Defendant before  
16 we recess?

17 MR. BLOOM: No, sir.

18 THE COURT: Thank you very much.  
19 We'll see you in the morning at 9:30.

20 (COURT IN RECESS)

21 (TRANSCRIPT CONTINUED NEXT PAGE)

22

23

24

25

1 MAY 5, 2009 9:30 A.M.

2

3 (DEFENDANT PRESENT)

4 THE COURT: Is the Defendant ready  
5 to proceed?

6 MR. BLOOM: Yes, sir, Your Honor.

7 THE COURT: Thank you very much.  
8 Good morning to you all as well. Solicitor,  
9 good morning. Let's bring in our jury. Our  
10 punctual jury. They've been amazing to me.  
11 They have been on time every single day, and I  
12 think that has a lot to do with the guys that  
13 have been meeting them and bringing them up  
14 here. Thank you'all for that, too.

15 Just for your information, and the  
16 Clerk has agreed, we are going to provide lunch  
17 for the jury for the next two or three days,  
18 whatever it may be. I thank the Clerk for  
19 that, too.

20 (JURY IN @ 9:40 A.M.)

21 THE BAILIFF: Jury is all present,  
22 sir.

23 THE COURT: Thank you very much.  
24 Thank you. Please be seated. Thank you very  
25 much, Ladies and Gentlemen. I was just

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

3652

1     commenting, because it's not something that you  
2     always have but I've been pleasantly surprised  
3     and really amazed -- and thank you -- every  
4     morning you are there on time. That says  
5     something. I assure you that's not always --  
6     that doesn't always happen. Thank you for  
7     that. Thank you for being that kind of person  
8     and that's just what we thought. And I  
9     appreciate that very, very much.

10           Also, the Clerk of Court has been kind  
11     enough to offer something, and I offer it to  
12     you and hope that it suits you. If it doesn't,  
13     you don't have to but we would like to provide  
14     lunch for you. We believe, in talking, that  
15     the case will go through today and probably  
16     through tomorrow, at least, insofar as  
17     testimony. And we would like to provide lunch  
18     for you. And we're making arrangements. I  
19     hope that's okay with you all. Certainly  
20     you'll have someone with you. I think that two  
21     of the deputies will accompany you. But we'll  
22     provide lunch and you'll be able to sit  
23     together. That's one little thing we can do  
24     and say thank you as well for what you're  
25     doing. We appreciate that.



1 I hope you had a good evening, and we  
2 are ready now to resume. And before resuming,  
3 as we have been doing, I need to ask do each of  
4 you solemnly swear or affirm that at all times  
5 since we were together yesterday you have  
6 observed the Court's instruction, and  
7 specifically have not talked with anyone,  
8 permitted anyone to talk with you or talk about  
9 this case in your presence, nor have you read  
10 anything or watched any news programs. If you  
11 can make that commitment, say "I do."

12 (UNANIMOUS AFFIRMATIVE RESPONSE BY JURORS)

13 THE COURT: Any member of the panel  
14 that cannot make that commitment, please stand.  
15 (No response).

16 Thank you very much. And we are ready  
17 to continue. Solicitor, good morning, and you  
18 may call your next witness.

19 SOLICITOR WILSON: Thank you, Your  
20 Honor. The State calls Shareen Roper

21 (WITNESS TAKES STAND)

22 SHAREEN ROPER, being duly sworn to  
23 tell the truth, the whole truth and nothing but  
24 the truth, testified, as follows:

25 DIRECT EXAMINATION

1 BY SOLICITOR WILSON:

2 Q. Ms. Roper, you testified earlier in the  
3 trial of this case, and I believe you mentioned  
4 that you had been married to Aven Roper.

5 A. That's right.

6 Q. And you'all were together all total how  
7 long?

8 A. Off and on at least eighteen years.

9 Q. You grew up here in Charleston?

10 A. Yes.

11 Q. You and Aven had children together?

12 A. Yes.

13 Q. And your children were who?

14 A. Gerard Roper and Nile Roper.

15 Q. How far apart were Gerard and Nile?

16 A. They're ten years apart.

17 Q. And Gerard was the older of the two?

18 A. Yes.

19 Q. Let's go back to when you first had Gerard  
20 or in the first years of his life. Where did  
21 he go to school?

22 A. Well, he went to Sacred Heart at first for  
23 elementary school. Then he went over to  
24 Cour. ay Middle School. He went to James  
25 Island High and South Carolina State College.

1 Q. Let's go back a minute. You mentioned  
2 that he went to Sacred Heart. And over the  
3 weekend you were telling me about your getting  
4 him admitted there and trying to get him in  
5 early. Tell the jury about that.

6 A. Right. Gerard was only four and at Sacred  
7 Heart at that time you had to be five years old  
8 to be admitted to attend there. Well, I talked  
9 to the officers there and told them that I  
10 thought he was very smart. At age four he  
11 could name the fifty states. Wow, you know?  
12 How many kids do you know that can do that?  
13 And the teachers said his language -- he speaks  
14 very well. And you're right. So I talked with  
15 them and they said, "Well, we'll try him out.  
16 If he's able to keep up with the five-year-  
17 olds, then we'll let him in." And he did. So  
18 at age five he went to the first grade.

19 Q. I think you also told me that besides  
20 being smart, he didn't necessarily like being  
21 ahead of himself in school. Is that right?

22 A. Right.

23 Q. And so what did he do?

24 A. So when he got in middle school, he was  
25 like at the eighth grade or something likes

1     that he made himself -- he didn't do well in  
2     that grade so he could stay back. But because  
3     he stayed back, he wasn't able to play ball and  
4     do the things that the kids his age would do.

5     Q. Was Gerard, even after he got to be a man,  
6     was he a big guy?

7     A. No, he was a small guy. At age twenty-  
8     nine, Gerard probably looked like he was about  
9     eighteen.

10    Q. Now, you mentioned that he went to school  
11    downtown at Courtney, but at some point you and  
12    Mr. Roper removed him to James Island.

13    A. Yes.

14    Q. And why did you'all do that?

15    A. Because when he was in the eighth grade it  
16    was some conversation about him talking to some  
17    little girl. And this guy who was in the grade  
18    with him called some other guys over from Burke  
19    High School and they ganged him. And the  
20    school was open at the time but they did  
21    nothing, they didn't contact me, they didn't  
22    call me. So I felt like they did nothing at  
23    the time. Gerard had to call me. So I went  
24    and got his father and we went back to the  
25    school. We also went to the parents' house and

1     talked to them about it. And I went back to  
2     the school and I told them that I was  
3     transferring him. And they told me that I had  
4     to have someone who was at James Island High.  
5     I didn't know anybody on James Island -- a  
6     parent. I told them that his grandmother's  
7     there, so he's going to be living with his  
8     grandmother and going to school on James  
9     Island. But eventually we moved onto James  
10    Island.

11   Q. And he finished high school there?

12   A. Yes.

13   Q. After he moved to James Island did that  
14   sever your concerns about going to school  
15   downtown, either Burke or Courtney?

16   A. Yes, that was fine.

17   Q. You mentioned that he got started in  
18   school early. When was it that he got  
19   interested in music or band?

20   A. He got interested when he was like in the  
21   seventh grade at Courtney Middle.

22   Q. What did he play?

23   A. He played the trumpet. He was in the band  
24   at Courtney Middle.

25   Q. Did he do pretty well with that?

- 1 A. Very well. He was the section leader.
- 2 Q. What does that mean?
- 3 A. Like he was in charge of all the kids that
- 4 played the trumpet. He would direct them on
- 5 what to do and how to go about formations or
- 6 something.
- 7 Q. How about when he got to high school at
- 8 James Island? Did he keep on playing?
- 9 A. Same thing, yes.
- 10 Q. How about when he got to State?
- 11 A. Same thing.
- 12 Q. He played in the band at State?
- 13 A. He played in the band at State, also as
- 14 trumpet leader -- section leader. Sorry.
- 15 Q. Gerard didn't finish State.
- 16 A. No, he didn't.
- 17 Q. And he had children. Is that right?
- 18 A. Yes, he did.
- 19 Q. How old are his children now?
- 20 A. Shanai is three, Ty is five and Cory is
- 21 seven.
- 22 Q. Ms. Roper, I want to show you some
- 23 photographs you've provided to us. First of
- 24 all State's 344, do you recognize that photo?
- 25 A. Yes.

1 Q. And State's 341?  
2 A. Yes.  
3 Q. State's 339?  
4 A. Yes.  
5 Q. 342?  
6 A. Yes.  
7 Q. 340?  
8 A. Yes.  
9 Q. 345?  
10 A. Yes.  
11 Q. 343?  
12 A. Yes.  
13 Q. And then 346?  
14 A. Yes.  
15 Q. Are those all photographs that you and Mr.  
16 Aven provided to us?  
17 A. Yes.  
18 Q. And do these photographs fairly and  
19 accurately show Gerard at various points in his  
20 life?  
21 A. Yes.  
22 SOLICITOR WILSON: We would like to  
23 mark these. First of all, State's 344.  
24 THE COURT: These are admitted  
25 without objection?

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.

3660

1 MR. BLOOM: No objection.

2 THE COURT: Very well. State's 339

3 through 346 are admitted without objection.

4 (SO ENTERED AS STATE'S EXHIBIT 339)

5 (SO ENTERED AS STATE'S EXHIBIT 340)

6 (SO ENTERED AS STATE'S EXHIBIT 341)

7 (SO ENTERED AS STATE'S EXHIBIT 342)

8 (SO ENTERED AS STATE'S EXHIBIT 343)

9 (SO ENTERED AS STATE'S EXHIBIT 344)

10 (SO ENTERED AS STATE'S EXHIBIT 345)

11 (SO ENTERED AS STATE'S EXHIBIT 346)

12 DIRECT EXAMINATION CONTINUED

13 BY SOLICITOR WILSON:

14 Q. When was that photo taken?

15 A. That was Gerard at James Island High  
16 School.

17 Q. The outfit that he has on there?

18 A. That's his band uniform.

19 Q. State's 341? Who's in that picture?

20 A. That's Gerard, his little brother and his  
21 dad. That's Gerard and Nile and Aven.

22 Q. Do you remember where that was taken?

23 A. We were at Six Flags.

24 Q. Had you gone there on a family trip?

25 A. On a family trip, yes.



1 Q. Do you know about how old Gerard was in  
2 that picture?

3 A. Gerard probably was about sixteen or  
4 seventeen.

5 Q. And State's 339? Who's in that picture?

6 A. That's a family portrait.

7 Q. When did you have that done?

8 A. We had that done in '96, I believe it was.

9 Q. And who's in the picture?

10 A. That's me, Aven, Gerard's dad, Gerard is  
11 in back and his little brother, Nile, is in  
12 front.

13 Q. Where is Nile now?

14 A. Nile is in college. Well, he goes to  
15 school in Myrtle Beach.

16 Q. What kind of school?

17 A. It's a technical school.

18 Q. Has he been up there for a few years?

19 A. Yes.

20 Q. State's 342? Where was that picture  
21 taken?

22 A. We were in Chicago when Gerard graduated  
23 from the Navy. That's me, Gerard, and his  
24 dad/Aven.

25 Q. And you'all went up there for graduation?

- 1 A. Yes.
- 2 Q. State's 340. Who's in that picture?
- 3 A. That's Gerard's little boy, Cory. I'm in  
4 the doorway and Gerard's on the opposite site.  
5 Cory was about two, I believe, there.
- 6 Q. And where was that picture taken?
- 7 A. Where we live on James Island.
- 8 Q. On James Island. And that would have been  
9 about how many years before Gerard's death?
- 10 A. Probably about two. Yeah -- he's seven.  
11 About four years.
- 12 Q. So Gerard would have been 25'ish in that  
13 photo?
- 14 A. Yes.
- 15 Q. And do you remember where you'all were  
16 going?
- 17 A. Church.
- 18 Q. And State's 345?
- 19 A. That's Gerard and his two boys. That's  
20 Cory and Ty. Tyler's the smallest one. I  
21 don't think Tyler was one yet because they're  
22 three years apart.
- 23 Q. And that was taken where?
- 24 A. Where we live, at 6 Anderson (phonetic)  
25 Avenue on James Island.

1 Q. And State's 343?

2 A. That's Gerard with his youngest boy,  
3 Tyler.

4 Q. Do you remember where that was taken?

5 A. Same place.

6 Q. At your house?

7 A. Yes.

8 Q. Did Gerard come over a good bit to visit  
9 you'all?

10 A. Yes.

11 Q. Bring the boys?

12 A. Quite often and bring the boys. Yes, he  
13 did.

14 Q. And finally State's 346, what is that a  
15 picture of?

16 A. That's Gerard when our little girl was  
17 born and the baby's mother.

18 Q. That was about five months before Gerard  
19 died?

20 A. Yes.

21 Q. Is that the last picture you have of him?

22 A. Yes -- well, that the baby's mother has of  
23 him.

24 Q. So, Shareen, the baby that was born in  
25 that picture, the little girl, she was born in

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.

3664

1     October?

2     A.    October 22.

3     Q.    Before Gerard died in March?

4     A.    Yes.

5     Q.    Tell the jury how important the children  
6     were to Gerard.

7     A.    He loved his kids more than anything.  I  
8     can remember there was a time that he told me  
9     that he if he hits the lottery what he's going  
10    to do.  He said, 'Mama, if I hit the lottery  
11    I'll be all set.'

12           I said, 'What do you mean?'

13           He said, 'Because then I can take care of  
14    my children, they'll be fine.'

15           I said, well, I can't remember -- maybe it  
16    was millions of dollars that the lottery was  
17    out for at that time.  And I said, 'Well, what  
18    are you going to give your mama?'

19           He said, 'Oooh, I'm going to give you  
20    \$50,000.'

21           I said, 'You're going to get millions of  
22    dollars and that's all you're going to give  
23    your mama?'

24           He said, 'That's all.  I've got three  
25    children to take care of.'  He said, 'Then you

1 have to share that \$50,000 with dad.'

2 I said, 'You mean to tell me we only get  
3 \$25,000 each?' I said, 'Thank you, no charge.'

4 Q. Shareen, you've talked about Nile, and so  
5 Nile would be about 20 now?

6 A. He's 22.

7 Q. Have you noticed Gerard's death having an  
8 effect on him?

9 A. Yes, Nile is very quiet now. He doesn't  
10 say a lot. But he always tells me that he's --  
11 he says that his brother's kids are his kids,  
12 he says 'I've got to raise my niece and nephews  
13 now that their dad is gone.' He said, 'I'm  
14 going to be like a father to his kids for him,  
15 so I don't have time to have kids right now.'  
16 You know, he's such a good boy, you know.

17 He don't say a whole lot, he don't express  
18 his feelings. I know that he closes in and he  
19 -- you know, he'll talk about how 'Rard used to  
20 make his laugh. Gerard was like his friend.

21 They were very, very close and he misses  
22 him a lot. I know he does because he always  
23 talks about it. When he talks about the kids,  
24 he talks about how they remind them of Gerard,  
25 the things that they do. The oldest boy acts

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.

3666

1 just like him.

2 Q. Acts just like Gerard?

3 A. Yes.

4 Q. Any of them got Gerard's smile?

5 A. They all do, all three of them. They're  
6 my grands, and they are the prettiest children.  
7 They look just like their dad, all three of  
8 them.

9 Q. In talking about Nile, do you remember  
10 when Nile found out what happened?

11 A. Yes. Well, some friends were calling Nile  
12 at first. They didn't know that Nile didn't  
13 live here, because at the time nobody believed  
14 that Mr. Dickerson actually killed my boy.

15 So when I found out, I called him and I  
16 said, "Nile, you've got to come home now."

17 He said, "Mama, what happened?"

18 I said, "Niles, just come on home and I'll  
19 tell you when you get here."

20 So when he got here, he said that he had a  
21 feeling already. You know, I was just crying.  
22 I just couldn't take it. And me and him were  
23 talking and -- and he knocked a hole in my  
24 wall, screaming and hollering, you know, "Why?"  
25 "Why?"

1 Q. But since that time Nile has been quiet  
2 about it every since?

3 A. Yes.

4 Q. You mentioned Mr. Dickerson. Did you know  
5 William Dickerson?

6 A. I don't remember him. I remember him as a  
7 little boy. I don't even think they were no  
8 more than about in about the fifth or sixth  
9 grade. I can tell you nothing about Mr.  
10 Dickerson, nothing. I remember his mom. I was  
11 standing outside on Spring Street ---

12 Q. Were you and his mom close friends?

13 A. No, we weren't close friends but we were  
14 neighbors. And at that time I didn't know  
15 Sandra lived down the street from me. I really  
16 didn't.

17 Q. When you say "neighbors", you'all didn't  
18 live side-by-side?

19 A. No, we didn't live side-by-side. I lived  
20 in a house -- a two-story house, and she lived  
21 further to the corner.

22 Q. When did you find that Sandra had been  
23 your neighbor?

24 A. She was walking down the street one day.  
25 And me and the boys were sitting on the stoop,

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.

3668

1 just sitting there. And she said, 'You know' -  
2 - and I believe she had William with her but at  
3 the time she didn't call him -- it was not  
4 Willie D and all that. She said, I think it  
5 was "Little Man." I think she called him  
6 Little Man.

7 She said that, you know, because she  
8 doesn't like kids to go running around and  
9 liked to keep them close to the house, do I  
10 mind if her son comes down there and plays with  
11 Gerard sometime. And I said, 'Well, I've got  
12 to talk to his dad first, but I don't think it  
13 will be a problem.' But I don't ever remember  
14 him ever coming to our house. If he did, I  
15 wasn't there.

16 Q. So he's not someone that was in your  
17 family's life?

18 A. No. He wasn't somebody that Gerard  
19 brought home. No. Even after he left, no.  
20 Gerard never brought him home with him to meet  
21 us or to sit down to supper with us.

22 Q. And Sandra, you knew who she was but  
23 you'all weren't close friends?

24 A. Right. Her brother was in my class. When  
25 we lived in the other neighborhood, I would see



1 the people.

2 Q. You now know what Mr. Dickerson did to  
3 your son?

4 A. Yes.

5 Q. And you haven't gone through all the  
6 pictures or anything like that?

7 A. No, I didn't look at any of them.

8 Q. Can you tell the jury how this has  
9 affected you? Not just that Gerard died, but  
10 what the Defendant did to him?

11 A. You didn't just kill my son.

12 You killed me, too.

13 I go to support groups. I've had to go  
14 see a psychiatrist. Every day of my life it's  
15 the same. I feel like it happened to me.

16 When they put that stuff in the paper  
17 after Gerard died, I never knew he did all that  
18 stuff to Gerard. I read it in the paper.

19 And each day of my life it's like he did  
20 it to me. I walk around. I have some good  
21 days, and I have some bad days. But I -- I  
22 can't even drive sometimes. It just comes out  
23 of nowhere in my head, and I just think 'How  
24 did he do this to my boy?'

25 How did you do all these things?

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.

3670

1 And you're sitting there?

2 MR. BLOOM: Judge, I'm going to  
3 object to this.

4 THE WITNESS: I just don't ---

5 THE COURT: Hold on a second. Ms.  
6 Roper, thank you very much. Please answer the  
7 questions and don't direct anything toward  
8 anyone. Thank you, ma'am.

9 THE WITNESS: I just don't see it, I  
10 just don't understand. You don't know how I  
11 feel at times. I have to walk around and think  
12 these thoughts. It stays with me all the time.  
13 He was a good boy, a good boy -- (emotional,  
14 crying).

15 DIRECT EXAMINATION CONTINUED

16 BY SOLICITOR WILSON:

17 Q. Ms. Roper, I know this is hard on you and  
18 that's all the questions I have. Do you need a  
19 minute before ---

20 MR. BLOOM: I have no questions,  
21 Your Honor.

22 THE COURT: Very well. Thank you,  
23 Ms. Roper. You may come down. Thank you,  
24 ma'am.

25 (WITNESS STEPS DOWN)

1 THE COURT: Solicitor, you may call  
2 your next witness.

3 SOLICITOR WILSON: The State calls  
4 Aven Roper.

5 (WITNESS TAKES STAND)

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

9 DIRECT EXAMINATION

10 BY SOLICITOR WILSON:

11 Q. Are you all right?

12 A. This is difficult, (affirmative nod), this  
13 is tough.

14 Q. I'm just going to go through some  
15 background questions and you won't be up here  
16 long. Okay?

17 A. Yes.

18 Q. First of all, Mr. Roper, did you know  
19 William Dickerson?

20 A. No, I don't recall him. Some of the  
21 others have said that ---

22 MR. BLOOM: I would object to what  
23 other people have said.

24 THE COURT: Sustained.

25 DIRECT EXAMINATION CONTINUED

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

3672

1 BY SOLICITOR WILSON:

2 Q. You don't know him?

3 A. I don't know him, no.

4 Q. How about the rest of his family?

5 A. I didn't know them.

6 Q. Did you know that he and your son were  
7 friends?

8 A. No, I didn't.

9 Q. Did you know that he and Gerard might have  
10 been involved in drugs together? Did you know  
11 anything about that?

12 A. No, I didn't.

13 Q. Mr. Roper, let's go back before all of  
14 this. Tell the jury about Gerard and your  
15 family.

16 A. He liked to impersonate people.

17 Q. Who was best impersonating?

18 A. My great-grandmother. She died at 102.

19 Well, it was my grandmother. She died at 102.

20 He would have everybody in here laughing  
21 impersonating her.

22 Q. Also he used to impersonate you. Did he  
23 ever do that in front of you?

24 A. Yes, he did.

25 Q. Especially if you had a little temper

1     tantrum or something?

2     A.    Yes.

3     Q.    He used to mock you, too?

4     A.    Well, he wouldn't do it in front of me.

5     Q.    We heard that he was in the band and

6     pretty good with the trumpet.  Is that right?

7     A.    Yes, he was.

8     Q.    So he had some musical talent.  Could he

9     sing?

10    A.    No, he maybe could rap or something, but

11    he didn't have a tune to sing.

12    Q.    How about sports?  Was he any good in

13    sports?

14    A.    Well, he liked to play sports.

15    Q.    He wasn't as big as you?

16    A.    No, he's a lot smaller guy.  But he liked

17    the softball, the basketball.

18    Q.    And I believe there was some testimony

19    last week about he'd hurt his foot?

20    A.    Yes.

21    Q.    And was that playing softball?

22    A.    Yes.  That was about five months before he

23    was killed, he sprained his ankle sliding on a

24    softball field base.

25    Q.    Did he play baseball when he was young?

1 A. Yeah, he did.

2 Q. Did you ever help with the baseball?

3 A. Yes, yes, I did.

4 Q. I think you were telling us how determined  
5 he could be at anything, even in baseball.

6 A. Yes.

7 Q. Tell the jury about one story.

8 A. They were playing baseball, and he wanted  
9 to be the pitcher. He walked in four balls,  
10 walked in one runner, walked in another runner,  
11 a third runner. Now he's walking in scorers.  
12 So everybody got the advantage. He walked  
13 another score in.

14 Q. What were you doing?

15 A. I took him off of the mound. But you  
16 could see how determined he was. He was  
17 determined to keep trying to throw the ball  
18 across the plate. But he did continue to be  
19 not as accurate and kept walking in the  
20 players, and finally they lost the game.

21 Q. But he tried?

22 A. Yeah, he wants to try. He just felt like  
23 he'd keep at it, I guess.

24 Q. And was he a big fan of sports?

25 A. He loved football, the New York Giants. I

1 guess all of his friends probably knew that he  
2 loved the Giants.

3 Q. Did he ever get to see them play in real  
4 life?

5 A. Yes. My nephew, he worked with the Giants  
6 organization. And he went up there and he went  
7 to see them play. And he had a ball up there,  
8 I heard.

9 Q. Was he excited when he got home?

10 A. Yes, he was.

11 Q. Do you remember how soon or far before  
12 Gerard's death that it was that he got to go  
13 see the Giants?

14 A. I think that was -- I think that was in  
15 August.

16 Q. Before he died later in March?

17 A. Yes.

18 Q. We heard some testimony about your son  
19 Nile, and he has not been here through the  
20 trial. Is that right?

21 A. No, he hasn't been. He has tests and all  
22 this week.

23 Q. And you talked to me about your concern  
24 for Nile and his knowing what happened.

25 A. Yes.

1 Q. Tell the jury about that.

2 A. I don't know how Nile is going to take it.  
3 He doesn't know, you know -- we have informed  
4 him of what's going on but I don't think he  
5 understands the impact of what he's going to  
6 meet when he comes back.

7 Q. You have grandchildren?

8 A. Yes.

9 Q. Cory, Ty and Shanai.

10 A. Yes.

11 Q. What's your concern for them?

12 A. Well, I'm concerned, you know, about  
13 another kid that doesn't have a mother and  
14 father, you know? Because Gerard was, you  
15 know, he had -- he would say do that or don't  
16 do that. He was just guiding them all over the  
17 place. I mean, it was a joy to see him, you  
18 know, see him raising up with them.

19 Q. You used the phrase when we talked over  
20 the weekend that Gerard was "determined to be a  
21 father to his children."

22 A. Yes.

23 Q. What did you mean by that?

24 A. He wanted to support them and give them  
25 the fatherly things. He just tried so hard to



1 provide for them. I could see the dedication  
2 in his eyes when he used to talk about those  
3 little kids.

4 Q. And you don't say that about everything in  
5 Gerard's life.

6 A. No, no. He wanted to provide and raise  
7 them. He truly did. He was all over the place  
8 in finances but he did them.

9 Q. I guess what I'm saying is when you say he  
10 was committed, there were things in Gerard's  
11 life that frustrated you that he wasn't  
12 committed about, like school, for example?

13 A. Yes.

14 Q. And he didn't finish school.

15 A. He didn't finish school.

16 Q. But you saw a difference with the way he  
17 was with his children?

18 A. Yes.

19 Q. And at point after Gerard got hurt, I  
20 believe, he was actually living with you. Is  
21 that right?

22 A. Yes, yes.

23 Q. What all did you provide for him?

24 A. I told him he could come here and stay  
25 with me for awhile.

1 Q. Did he want to be independent?

2 A. Yeah. He didn't want to be there. He  
3 wanted to be on his own, he went back to work,  
4 I mean running the saw doing carpentry work on  
5 crutches. I didn't want him to do that, but he  
6 was so determined he was going to do that and  
7 they would allow him to run the saw while he  
8 was on crutches. He could stand up there and  
9 run the saw and they would send the  
10 measurements down.

11 Q. But you would have provided for him?

12 A. Oh, absolutely. Absolutely.

13 Q. He wanted to make it on his own?

14 A. Yeah, he didn't want to be there with me.  
15 He just felt like -- I guess he felt like that  
16 at that age that he should be on his own.

17 Q. And after he moved out from you, those few  
18 months before he died, he moved in with the  
19 mother of his two sons?

20 A. Yes.

21 Q. And that's where he was living when he  
22 died?

23 A. Yes, it was.

24 Q. Have you and your family decided how to  
25 handle his children and what they know about

1     how Ger ard died?

2     A.   I don't know.   It just hasn't soaked in.

3     But I'm just trying to be a good -- I guess,

4     help to be the father he would have been to

5     them.

6     Q.   And they're very young now, so they don't

7     know?

8     A.   Yes.   They're getting to the age where

9     they will probably want to know more about what

10    had happened.

11   Q.   And besides the fact, obviously, that

12   you've lost your firstborn, how has it affected

13   you to know what happened to him?

14   A.   It's affected me greatly.   It affects me

15   every day around -- (emotional) -- around 3:00

16   o'clock and during this time of year that he

17   died, it's just a feeling that comes on.   It

18   just -- (emotional).

19   Q.   Have you gotten some medication to try to

20   help you?

21   A.   Yes.   Yes, I take anti-anxiety pills.

22   Q.   And that's something you never had to do

23   before?

24   A.   No, no.

25                   SOLICITOR WILSON:   That's all I have,

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

3680

1 Your Honor

2 MR. BLOOM: We have no questions,

3 Your Honor.

4 THE COURT: Thank you, Mr. Roper.

5 You may step down.

6 (WITNESS EXCUSED)

7 THE COURT: Solicitor, call your  
8 next witness.

9 SOLICITOR WILSON: The State calls  
10 Dr. Schandl.

11 (WITNESS TAKES STAND)

12 CYNTHIA SCHANDL, M.D., being duly  
13 sworn to tell the truth, the whole truth and  
14 nothing but the truth, testified, as follows:

15 SOLICITOR WILSON: Beg the Court's  
16 indulgence.

17 THE COURT: Take your time,  
18 Solicitor.

19 SOLICITOR WILSON: Your Honor, I  
20 believe Dr. Schandl has already been qualified  
21 as an expert.

22 THE COURT: She has. Absolutely,  
23 and Dr. Schandl will continue to be permitted  
24 to render opinions in the area of pathology and  
25 forensic pathology.

1 SOLICITOR WILSON: Thank you, Your  
2 Honor.

3 DIRECT EXAMINATION

4 BY SOLICITOR WILSON:

5 Q. Dr. Schandl, you testified in the trial  
6 last week regarding the injuries that Gerard  
7 Roper suffered. I believe you also testified  
8 that as part of your doing a forensic autopsy  
9 photographs were taken?

10 A. That's correct.

11 Q. And did you take photographs basically  
12 documenting the specific injuries that Mr.  
13 Roper suffered?

14 A. Yes, there are photographs, basically  
15 regional areas of the body. So, for example,  
16 there may be a photograph of the face or a  
17 photograph of the torso. But, yes, a number of  
18 different photographs to document all the  
19 injuries.

20 Q. And when you testified here last week you  
21 also used a diagram to go over many of those  
22 injuries. Is that right?

23 A. That's correct.

24 Q. I'm going to show you a number of  
25 photographs. You saw these before the trial,

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.

3682

1 correct?

2 A. Yes.

3 Q. Just so we have the record clear, State's  
4 153, 336, 160, 161, 162, 171, 172, 166, 173,  
5 335, 181, 178, 177, 184 and 141, are these all  
6 photographs that were taken at the autopsy of  
7 Gerard Roper?

8 A. Yes, they are.

9 Q. And are they fair and accurate depictions  
10 of the wounds that he sustained?

11 A. Yes, many of those wounds. That's  
12 correct.

13 SOLICITOR WILSON: Your Honor, at  
14 this time we'd offer those exhibits  
15 aforementioned into evidence.

16 THE COURT: Let's go through them.  
17 State's 141, 153, 161, 162, 166, 171, 172, 173,  
18 177, 178, 181, 184, State's 335 and 336 are  
19 admitted subject to the objection of counsel  
20 that previously been argued and on the record  
21 in this case and protected fully by that  
22 objection.

23 COURT REPORTER: Also 170.

24 BRUCE DURANT: I believe 160.

25 COURT REPORTER: Yes, 160. Thank

1     you.

2                   THE COURT:     State's 160, as well.

3     And that's also subject to objections of  
4     counsel as previously argued.

5                   BRUCE DURANT:     I believe that  
6     should be 160.

7                   THE COURT:     It's item 160 instead of  
8     160. I stand corrected. Did I check them all,  
9     Solicitor?

10                  SOLICITOR WILSON:     Well, mine are in  
11     a different order. So what I'll do is before I  
12     show them, I'll just make sure for each one as  
13     we go.

14                  THE COURT:     That's fine. You'll  
15     reference it and I'll check.

16                  COURT REPORTER:     All marked and  
17     entered as previously discussed, with the  
18     exception of 141 which is now entered as  
19     State's Exhibit 141.

20                  (SO ENTERED AS STATE'S EXHIBIT 141)

21                  THE COURT:     Thank you.

22                  DIRECT EXAMINATION CONTINUED

23     BY SOLICITOR WILSON:

24     Q. Dr. Schandl, if you could step down again,  
25     what we're going to do is the initial

1 photograph, just to show some of those areas  
2 before we give it to the jury. And then we'll  
3 do the other ones on the board. If you could  
4 just step down.

5 A. (Complies)

6 Q. If we could just, Dr. Schandl, if you  
7 could explain these injuries. First of all,  
8 were the injuries that we're going to be  
9 talking about that you've already testified  
10 about, were any of those injuries postmortem,  
11 meaning after death?

12 A. None of them were apparently postmortem,  
13 no.

14 Q. What are the things you look at to be able  
15 to tell if something happened before death  
16 versus after death?

17 A. Essentially, if you have injury when  
18 someone is alive, you'll have bleeding into the  
19 site. You may have infection into the site.  
20 But you have a reaction of that tissue.

21 If you have an injury that occurs after  
22 death, you have no bleeding into the site and  
23 you don't have any inflammation or reaction of  
24 that tissue. So we look at the tissue if  
25 there's bleeding at the site, that is



1 suggestive of him being alive at the time of  
2 the injury.

3 Q. Would you look at State's Exhibit 153.  
4 Before we get into going into the actual  
5 injuries, does the significance of the way the  
6 tag, the essay number, does that have  
7 significance to you?

8 A. Yes, our attempt in every photograph is to  
9 place that number, whether it's this small one  
10 -- there's also a larger one that you'll see in  
11 other photographs - such that if you're reading  
12 it, you would be reading it as if the  
13 individual was standing. So depending on the  
14 orientation of the number you can tell which  
15 way is up and which way is down.

16 Q. This is like in the close-ups?

17 A. When you get very tight in you have no  
18 orientation except by looking at that number  
19 sometimes.

20 Q. On this photograph, State's 153, what is  
21 the abrasion area?

22 A. I can just describe what we have. What we  
23 have is a photograph of Mr. Roper at the  
24 beginning of the autopsy, so we're still doing  
25 the external examination. We're looking at Mr.

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.

3686

1 Roper's chest and part of his face. But we're  
2 concentrating on his torso, his chest here.

3 And so we have an abrasion here, and one here.

4 And there are several other injuries that  
5 are less well seen. There's an abrasion here  
6 and a couple of others in other regions that  
7 were described in the diagram last week that we  
8 can see on this photograph.

9 Q. I believe you testified last week that Mr.  
10 Roper was 135 pounds at the time of autopsy?

11 A. Yes, that's correct.

12 Q. And his height was ---

13 A. Five foot eight (5'8").

14 Q. State's 336. Before you go into the  
15 injuries shown on State's 336, we see on Mr.  
16 Roper's head that it's shaved. When he arrived  
17 to you was his head shaved?

18 A. No. In order to get a good look at the  
19 injuries we will shave any areas that have hair  
20 so that we can appropriately diagram them and  
21 see if there are any patterns to the injuries  
22 and better measure them, as well as identify  
23 some that are less obvious and you may not be  
24 able to see through the hair. So we did shave  
25 Mr. Roper prior to looking at some of these

1 injuries.

2 Q. And if you could tell the jury what we're  
3 seeing here in State's 336.

4 A. Concentrating again on the torso, in this  
5 case the back, we see multiple areas of  
6 abrasion which are areas of blunt trauma.

7 These two over here that are somewhat  
8 semi-circular, here on the left side of the  
9 back, did have a hemorrhage into the tissues  
10 underneath when we did open under the  
11 subcutaneous tissue. But beneath the skin  
12 there was hemorrhage.

13 Some of the others were much more  
14 superficial, without hemorrhage underneath.

15 And just in quantifying those on the back,  
16 and then there are several on this shoulder  
17 that we see just some of here, there are about  
18 twenty-five injuries to that region.

19 Q. I'm not going to show it on the board, but  
20 State's 160 if I could get you to come around  
21 and tell the jury -- what does this photo show?

22 A. Here we're looking at the right side of  
23 Mr. Roper. Here's the arm, the nipple, the  
24 chest and the abdomen. We can see some  
25 injuries to the side of the arm. These have

1 the appearance of sharp injuries, possibly done  
2 by something sharp but it's still superficial.  
3 And then there are abrasions to the abdomen  
4 here right at the lower chest where you have  
5 hemorrhage to the underlying tissue.

6 Q. What does that tell you, that there's  
7 hemorrhage beneath the tissue?

8 A. Well, it tells me several things. If the  
9 blunt impact was such that it caused underlying  
10 bleeding then it also shows here (indicating).

11 Q. State's Exhibit 161?

12 A. This is a photograph of Mr. Roper's left  
13 arm, his lower arm, forearm and part of his  
14 hand. And as you can see here some of the  
15 swelling -- soft tissue swelling and bruising  
16 in the region of the wrist. And there was a  
17 fracture to one of the bones of the wrist as  
18 well on the left hand.

19 Q. State's 162.

20 A. Again, his left arm. Here we have a  
21 better view of the inner upper arm and we can  
22 see an abrasion, a laceration, several  
23 different abrasions. The arms in total had at  
24 least twenty-five injuries to them combined.

25 Q. State's 171?

1     A.    This is the right hand of Mr. Roper.  We  
2     see some injuries to the back of the hand.  
3     They are either punctures or lacerations.  
4     There are fractures to his hand, both to this  
5     digit here, to the index finger in this region,  
6     and to the thumb and the hand here at the  
7     pinkie side.  
8     Q.    There was a fracture there?  
9     A.    There was as fracture in those two areas,  
10    the index finger on the right hand and the  
11    hand.  
12    Q.    State's 172?  
13    A.    This is another picture of Mr. Roper's  
14    left hand showing some of the injuries.  This  
15    may be a sharp injury or a puncture wound and  
16    several abrasions to the back of the hand and  
17    swelling over the entire hand.  This is again  
18    where the wrist was fractured, on the left,  
19    that we described previously.  
20    Q.    Now are the wounds that we just saw on  
21    State's Exhibits 171 and 172, are they  
22    consistent with being defensive-type wounds?  
23    A.    Defensive wounds simply suggest that one  
24    may have received those injuries while  
25    attempting to defend himself from an attack.

1 And so they are commonly on the hands, the  
2 wrists, the forearms. It is a possibility,  
3 yes.

4 Q. So it's consistent with someone shielding  
5 himself or holding their arms out, up?

6 A. Yes, that could have been how that were  
7 sustained. Yes.

8 Q. State's 166.

9 A. Again, from looking at the number we know  
10 that his feet are down this way and his foot is  
11 actually right around here. Here is his calf.  
12 Here is his knee. So we see several abrasion  
13 injuries. We see a sharp injury here and  
14 another one here. This injury did result in  
15 fracture of the underlying bone of the shin,  
16 the tibia bone. So that injury which appeared  
17 to be due to a sharp implement, such as  
18 probably a knife, did penetrate the outer layer  
19 of that bone which we call the cortex.

20 Q. And that injury to the far right of the  
21 screen (indicating) that would have been just  
22 on the inside of the knee, kind of like in this  
23 area?

24 A. Yes, that's where it would be.

25 Q. So it's not on the shin where you might

1 run into furniture or ---

2 A. No, that's correct. It's up much higher,  
3 right near the knee here.

4 Q. State's 173?

5 A. Here are the fingers of the right hand.  
6 Again, you see some injuries, various  
7 abrasions, what we call skin avulsion where the  
8 skin is just torn away. More abrasions.

9 The fingernails, we clipped those for  
10 evidence. So that's an artifact of our  
11 process.

12 Q. Dr. Schandl, the rest of the photos we're  
13 not going to do them on the big screen, so  
14 let's --unless someone can't see.

15 A. (Returns to witness stand).

16 Q. Again, you mentioned that when Mr. Roper  
17 arrived to you that his head was not shaved.  
18 And in State's 335, that was taken before you  
19 shaved the head?

20 A. That's correct.

21 Q. State's 335, if you could explain to the  
22 jury what injury is depicted in this  
23 photograph.

24 A. Yes. So in this photograph we see -- this  
25 is what we call an identification photo. So it

1 shows Mr. Roper's face straight on.

2 We see a number of injuries. And we start  
3 here in the forehead region, there are a number  
4 of lacerations. If you'll recall, a  
5 "laceration" is the product of blunt force as  
6 opposed to sharp force and one that slits the  
7 skin.

8 So what we're seeing is approximately  
9 twenty lacerations in the region of the  
10 forehead and the bridge of the nose.

11 Q. Twenty separate?

12 A. Well, they appear to be separate. They  
13 can be separately measured.

14 As I mentioned last time, I can't tell you  
15 if there was an unusual surface to what Mr.  
16 Roper was struck with that may have resulted in  
17 something looking like two lacerations when it  
18 was only one. And on the other hand, I  
19 can't tell you, for example, that a larger  
20 laceration wasn't made by more than one strike.

21  
22 So that's why I'm talking in approximate  
23 numbers of strikes. We have twenty injuries  
24 that we can point to. And these lacerations in  
25 this area, this resulted in multiple fractures



1 of the brow bone here which is part of the  
2 frontal skull, which did translate what we call  
3 cribriform plate fractures. That's again a  
4 part of the frontal skull, at the base of the  
5 skull, as well as fractures to the nasal  
6 bridge. So this number of blows did result in  
7 fractures of the skull and the nose.

8 In addition, there were -- just from the  
9 blows there was hemorrhage to the surface of  
10 the eyes which you cannot see here, but it's  
11 underneath the eyelids.

12 Q. So his eyes -- I know you took photos,  
13 we're not showing those photos, so they would  
14 have appeared extremely bloodshot?

15 A. Yes, there were little areas of bleeding  
16 into the surface of the eyes, of both of the  
17 eyes, in the areas where he was struck. In  
18 addition, his eyes were petechial hemorrhages  
19 which are very small pinpoint hemorrhages which  
20 are not indicative of trauma to the eye, but  
21 are indicative of an event in the vessel, the  
22 very, very small vessels that burst in the eye.

23 Also in this photograph we see an  
24 additional approximately fifteen wounds in the  
25 lower area of the face, including multiple

1       abrasions around the nose and on the cheeks.

2               We have lacerations to the inside of the  
3       lips and several abrasions on the cheeks, as I  
4       mentioned.

5               In addition, you have here that he has the  
6       absence of two teeth. Those are the two upper  
7       central incisors. Those are absent, and it's  
8       evident that they are recently absent as there  
9       is bleeding into the sockets where the teeth  
10      were.

11      Q.   How about swelling? Are the lips swollen?

12      A.   There is a degree of soft tissue swelling  
13      in multiple areas including the lips, around  
14      the eyes and certain areas of the forehead.

15      Q.   I believe you testified in the first phase  
16      of this trial about the ingestion of blood?

17      A.   That's correct.

18      Q.   That could have been related to the  
19      fracture of the nose. Is that right?

20      A.   That's correct. As the nose and the oral  
21      cavity, of the nose and mouth, are connected  
22      essentially. So if you do break your nose and  
23      you have blood coming into your nose, you can  
24      easily get that into your mouth and swallow  
25      that. So that is a reasonable explanation for

1     why he had swallowed blood.

2     Q.   How about the teeth being knocked out.

3     Could that also contribute to that?

4     A.   Yes, certainly.  Any way that he got blood  
5     into his mouth.

6     Q.   And then the cribriform plate, I believe  
7     you said is way inside.  It's not just right  
8     here.

9     A.   That's correct.  The cribriform plate --  
10    your skull is shaped somewhat like your brain  
11    is, sort of like that.  So this is your frontal  
12    skull, and here's your forehead.  It comes  
13    around like that.  The cribriform plate would  
14    be where my thumb is.  So your face would  
15    continue on like that with the cribriform plate  
16    here that had fractures in it, underneath the  
17    base of the skull.

18    Q.   I believe you testified in the guilt phase  
19    as well that these types of injuries could have  
20    been or are consistent with the butts of the  
21    guns that we showed you or the nunchucks that  
22    we showed you?

23    A.   Yes, I cannot distinguish them though.

24    Q.   State's Exhibit 181.

25    A.   This is a photograph after we had shaved

1 his head, of the back of his head. And I have  
2 a left and right here, just for my own  
3 reference. And there are again multiple  
4 lacerations, those that break the skin, blunt  
5 force that breaks the skin, and abrasions,  
6 blunt force that is not breaking the skin.  
7 Here we have an abrasion associated with a  
8 laceration. Blunt forces that result from a  
9 laceration often have an associated abrasion.  
10 So as it's slitting the skin, it will also  
11 abrade the skin around it. So that's why you  
12 see an abrasion surrounding most of the  
13 lacerations.

14 In addition, down here towards the neck,  
15 we have two entries that appear to be sharp  
16 force injuries. This one here, more to the  
17 left, did penetrate through the skin, and this  
18 other one was much more superficial and did  
19 not.

20 Q. Are there any issues with regard to tissue  
21 bridging which you talked about in these  
22 photos?

23 A. Well, tissue bridging is simply a  
24 description of a laceration. So any time you  
25 have a laceration, you will likely have tissue

1 bridging. So we were talking about the  
2 difference between sharp force and blunt force  
3 last week.

4 So with sharp force injury, you would not  
5 expect tissue bridging because it would be a  
6 clean cut.

7 Whereas as with blunt force, you may still  
8 have some tissue bridging, that defect, because  
9 it's not a sharp cut. It's a blunt injury.

10 Q. Just to the left in between the left and  
11 right, is that more consistent with a sharp  
12 force or a blunt force?

13 A. These are all blunt force. These are all  
14 lacerations with tissue bridging. So he was  
15 struck with something not too sharp.

16 Q. And hard enough to split the skin?

17 A. Correct. There are no skull fractures  
18 associated with this set of wounds.

19 Q. State's 178.

20 A. This is a photograph of -- again, we have  
21 him shaved -- of the right side of Mr. Roper's  
22 head. We see some of the same lacerations and  
23 abrasions that we saw in the previous  
24 photograph. We won't talk about those. Some  
25 of the same lacerations and abrasions that we

1 saw on the frontal photograph. There are  
2 additional abrasions here behind the ear. Here  
3 is an abrasion with bruising or a contusion, we  
4 call it, to the front of the ear.

5 And right here in the cartilagenous or  
6 the cartilage part of the ear, there is a sharp  
7 injury that perforates that part of the ear.  
8 So there's a defect all the way through that  
9 part of the ear with something, possibly a  
10 knife, something sharp. And beneath that sharp  
11 injury is a second sharp injury to the skin  
12 behind the ear that suggests to me that that  
13 would be by a single impact with a sharp  
14 weapon, such as possibly a knife.

15 Q. Certainly, this injury you're discussing  
16 to the ear was not life threatening?

17 A. That's correct.

18 Q. Painful?

19 A. Potentially, yes.

20 Q. I'm somewhat unclear on that is, that dark  
21 area there. That's an abrasion?

22 A. Yes, this is an abrasion. There's some  
23 sort of a scrape of the skin. It is associated  
24 with contusion or bleeding into the tissue. So  
25 it is consistent again with a blunt force

1 injury of some type.

2 Q. State's Exhibit 177.

3 A. This is the left side of Mr. Roper's head.

4 Here we see one of the larger -- the largest  
5 laceration to his head, which is over two  
6 inches in size. It's a complex laceration so,  
7 again, I can't tell you if that was created by  
8 one blow or by potentially three or more blows.

9

10 We see some of the lacerations and  
11 abrasions to the face.

12 Here is a laceration to the left temple  
13 region of the head. And beneath that  
14 laceration there is a skull fracture.

15 And here are some additional abrasions and  
16 a laceration here behind the ear and down to  
17 the neck. Now, with the neck, there were  
18 additional injuries when we went ahead and did  
19 the internal examination.

20 So the neck had additional blunt injuries  
21 that included hemorrhages in the muscles of the  
22 neck, what we would call the strap muscles of  
23 the neck, as well as fracture to the thyroid  
24 cartilage, which is the Adam's apple. It was  
25 cracked at the middle.

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.

3700

1                   And a fracture to the hyoid bone which  
2           is a very fine bone that floats up here in the  
3           neck. So possibly associated with these  
4           abrasions and possibly not, there is blunt  
5           trauma to the neck.

6           Q.   Earlier you testified about the brow area  
7           being crushed.

8           A.   Yes.

9           Q.   Can you tell that on this photograph?

10          A.   You can tell by the change in contour of  
11          Mr. Roper's face. You see a flattening here of  
12          his brow ridge and a flattening of the nasal  
13          bone. So these are the bones here that are  
14          fractured. And you can see that softening of  
15          the contour and the loss of the brow line.

16          Q.   So the brow bone -- I know that's not a  
17          medical term. But that bone being broken is  
18          different than when you're talking about the  
19          nasal area or the nose being broken?

20          A.   That's correct. So that's part of the  
21          base of the skull, the frontal bone of the  
22          skull. And the nasal bone is one of the facial  
23          bones, a separate.

24          Q.   Dr. Schandl, you also mentioned that you  
25          found evidence of a burn.



1 A. That's correct.

2 Q. State's Exhibit 184.

3 A. This is a photograph of Mr. Roper's  
4 pelvis. This is his scrotum drawn forward, or  
5 anterior, drawn up, and this is the burn that I  
6 described. So it's an area of blackened skin  
7 or charring to the skin. You can start to see  
8 that basically the blistering has caused a  
9 defect of the skin layer around the edges of  
10 this burn.

11 Q. How long would it take for the blistering  
12 to take place? Would that be something that  
13 would happen immediately?

14 A. It begins immediately.

15 Q. How about charring?

16 A. Again, it begins immediately.

17 Q. And, finally, you testified about there  
18 being some trauma to Mr. Roper's anal area and  
19 rectal area. Please remind the jury what you  
20 found in that examination.

21 A. Yes. There were actually lacerations to  
22 the skin surrounding the anal opening, two  
23 lacerations. The rectal mucosus, that's  
24 actually a part of the large bowel, was intact  
25 and looked okay. However, there was a

1 collection of blood surrounding the bladder and  
2 rectum of about 100 millimeters, again about  
3 what I could hold in my two hands. And there  
4 was also hemorrhage into the prostate gland  
5 itself about this size round, one centimeter,  
6 about this size round area.

7 Q. And State's 141, if you could orient the  
8 jury.

9 A. So his feet would be down towards the  
10 floor. This is his anus here and you can see  
11 the tear or laceration here and a second one  
12 here. I did take a section to look under the  
13 microscope from this region and did find influx  
14 of inflammation. So white blood cells had  
15 aggregated in that area causing an abscess or  
16 an inflammatory reaction.

17 Q. So the buttocks of Mr. Roper would be to  
18 either side?

19 A. That's correct.

20 Q. And the actual opening that's natural is  
21 right here, this dark area?

22 A. That's correct.

23 Q. What we see above there is a tear?

24 A. That's a tear, a laceration to the skin,  
25 and another here.

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

3703

1 Q. Could those injuries be consistent with a  
2 broom handle or the barrel of a gun?

3 A. Yes, certainly.

4 THE COURT: Solicitor, what was the  
5 number on that Exhibit?

6 SOLICITOR WILSON: 141.

7 THE COURT: Thank you.

8 DIRECT EXAMINATION CONTINUED

9 BY SOLICITOR WILSON:

10 Q. Dr. Schandl, that last photograph you were  
11 telling us that you took a sample of the area  
12 around that tear. Is that right?

13 A. That's correct.

14 Q. And you said that white blood cells had  
15 already started to go to that area?

16 A. That's correct.

17 Q. I believe your testimony in the guilt  
18 phase was that it would take about how long for  
19 all of that to happen?

20 A. To aggregate to the extent that I saw  
21 under the microscope, at least eighteen hours,  
22 up to twenty-four. It could be much longer  
23 than that, but at least eighteen hours or so.

24 Q. And that again would mean -- that doesn't  
25 happen after death?

1 A. No. You have to be actively pumping blood  
2 around the body for those white blood cells to  
3 get to the location.

4 Q. In coming up with your opinion as to the  
5 cause and manner of death, did you see any one  
6 particular wound that was a fatal wound?

7 A. Not that I could point to and say  
8 absolutely that was a fatal wound, no.

9 Q. So how was it again that Gerard Roper  
10 died? If no one wound was fatal?

11 A. The sum total of all the wounds was fatal.  
12 The preponderance of wounds were to the head  
13 and to the neck area and the most likely cause  
14 of death is the blunt trauma to the head and  
15 neck. However, it's certainly possible that  
16 he lost a good deal of blood during the time,  
17 and blood loss could be another way that he  
18 died.

19 So it's not possible to tease those out.

20 Q. And in the photos that we've seen it has  
21 been cleaned, the wounds had been cleaned. So  
22 we didn't see all the blood and that sort of  
23 stuff?

24 A. That's correct. Before taking the  
25 photographs, we do clean them.

1 Q. So most of the wounds were on the head and  
2 neck. The other wounds that we saw, the legs,  
3 to the hands, they wouldn't be fatal or perhaps  
4 not even really dangerous?

5 A. The majority of the wounds were  
6 superficial and would not have been fatal.  
7 Some of the wounds, anything that punctures the  
8 skin, there's always the possibility of  
9 infection down the road. So you can't conclude  
10 that they couldn't eventually become fatal, but  
11 certainly not likely to be fatal.

12 Q. But painful?

13 A. Certainly.

14 Q. And all in all, over two hundred injuries?

15 A. That's correct.

16 SOLICITOR WILSON: Beg the Court's  
17 indulgence.

18 THE COURT: Yes.

19 SOLICITOR WILSON: That's all I have,  
20 Your Honor.

21 THE COURT: Very well. Cross-  
22 examine.

23 MR. BLOOM: May we approach the  
24 Bench, Your Honor?

25 THE COURT: Sure.

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.

3706

1 (OFF RECORD BENCH CONFERENCE)

2 MR. BLOOM: No questions, Your  
3 Honor. Thank you.

4 THE COURT: Thank you. We've had a  
5 sidebar concerning certain matters that have  
6 been previously argued on the record. We'll  
7 place them on the record as soon as we take our  
8 first break. And the Defendant is protected  
9 with the timeliness of that Motion.

10 Thank you very much, Dr. Schandl. You may  
11 step down. Do you wish this witness to be  
12 excused?

13 SOLICITOR WILSON: Yes, sir.

14 THE COURT: Any objection?

15 MR. BLOOM: No objection.

16 THE COURT: You are also free to  
17 leave. Thank you.

18 (WITNESS EXCUSED)

19 THE COURT: At this point, Ladies  
20 and Gentlemen, we'll take a break. Do not  
21 begin your deliberations, don't discuss the  
22 case. We'll be with you probably in about ten  
23 or fifteen minutes.

24 (JURY OUT 3 10:54 A.M.)

25 THE COURT: Prior to the witness,

1 Dr. Schandl, being excused, Mr. Bloom  
2 approached the Bench concerning the proffer  
3 that was previously made in the guilt phase.  
4 He renewed his request to basically reiterate  
5 that proffer and have that included as a part  
6 of this proceeding. In my discussions with Mr.  
7 Bloom, the questions asked in the guilt phase  
8 would be those same questions that he would  
9 propound to the witness at this stage. And  
10 therefore we simply incorporate that by  
11 reference as being a part of what the first act  
12 was, and incorporate fully all testimony from  
13 the first phase.

14 MR. BLOOM: That's correct, Your  
15 Honor. We would simply renew our Motion  
16 regarding our proffer, that we be allowed to  
17 ask those questions.

18 THE COURT: Thank you. And it is  
19 denied.

20 MR. BLOOM: We would make a Motion  
21 for a directed verdict, Your Honor, as to the  
22 aggravating circumstances.

23 THE COURT: Hold on just one second.  
24 Have you rested?

25 SOLICITOR WILSON: We haven't

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.

3708

1 formally, but we will.

2 THE COURT: Thank you.

3 MR. BLOOM: We would make those  
4 Motions for a directed verdict as to all three  
5 aggravating circumstances, the criminal sexual  
6 conduct, the kidnaping, the torture in light of  
7 all the evidence. We believe that a directed  
8 verdict would be proper in light of the  
9 evidence.

10 THE COURT: Thank you very much.  
11 And since we incorporated the testimony from  
12 the first stage -- obviously the torture has to  
13 be determined. The State is not required to  
14 prove all of them. If they prove one, it's my  
15 understanding that the instruction and the law  
16 is that they would be entitled for the jury to  
17 consider a death sentence. Two of the --  
18 having been incorporated, two of the  
19 aggravating circumstances, that being criminal  
20 sexual conduct in the first degree and  
21 kidnaping, have been established, I believe,  
22 sufficiently to defeat that Motion and  
23 therefore I would deny it on that basis.  
24 Anything else?

25 MR. BLOOM: Nothing on behalf of the



1 Defendant, Your Honor.

2 THE COURT: Let me explore again, if  
3 I may, with the Defendant at this point  
4 concerning his election to testify and to start  
5 the process of talking about his right to  
6 address the jury as well.

7 MR. BLOOM: If I may have a moment  
8 with him.

9 THE COURT: Sure. We'll take a  
10 moment and then I'll do that before we bring  
11 the jury back, if that's acceptable. Thank  
12 you. We'll be at ease.

13 MR. BLOOM: Thank you, Your Honor.

14 (BRIEF RECESS)

15 (DEFENDANT PRESENT)

16 THE COURT: Are we ready to  
17 continue?

18 SOLICITOR WILSON: I think Mr. Bloom  
19 wants to put something on the record? Did you  
20 want to put that on the record about the  
21 toxicology?

22 MR. BLOOM: Yes.

23 THE COURT: We did. Mr. Bloom, have  
24 you had the opportunity now to discuss with Mr.  
25 Dickerson his decisions in this matter?

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.

3710

1 MR. BLOOM: I have, Your Honor.

2 THE COURT: And he has made a  
3 decision, or he's still contemplating it?

4 MR. BLOOM: A preliminary decision.

5 THE COURT: And preliminarily he's  
6 indicated what, sir?

7 MR. BLOOM: He does not wish to  
8 testify and further he does not wish to give a  
9 last argument to the jury.

10 THE COURT: And thank you,  
11 Gentlemen. You may take your seat. Thank you  
12 so much for standing, I appreciate it. Mr.  
13 Dickerson, you've had the opportunity to  
14 discuss with your attorney -- and we discussed  
15 this earlier in the first phase, but you have  
16 obviously the right to testify or not testify  
17 in this second phase. And you understand that.  
18

19 DEFENDANT: Yes, sir.

20 THE COURT: They've explain that to  
21 you and answered any questions you have?

22 DEFENDANT: Yes, sir.

23 THE COURT: At this moment you've  
24 decided that you most probably will not testify  
25 during this phase. Is that correct?

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.

3711

1                   DEFENDANT:     At this moment, right  
2     now, but we still want to talk about it.

3                   THE COURT:     Absolutely. The only  
4     thing that I would ask is that before you rest  
5     your case, in other words before your attorney  
6     says "we have no more witnesses," that we  
7     excuse the jury and you and I will talk again.

8                   DEFENDANT:     (Affirmative nod).

9                   THE COURT:     But at this point your  
10    decision, preliminarily, is that you don't  
11    think you're going to take the stand. Is that  
12    correct?

13                  DEFENDANT:     That's correct.

14                  THE COURT:     And you understand, as I  
15    have explained to you that certainly the jury  
16    would be instructed that they could not use  
17    that against you in any fashion?

18                  DEFENDANT:     Yes, sir.

19                  THE COURT:     In fact, as you heard  
20    during our individual *voir dire* of the jury, we  
21    specifically asked that you are not required to  
22    prove any mitigating circumstances, and that  
23    they couldn't use that against you if there  
24    were. And that doesn't have to come from you.  
25    It more than likely comes from other people.

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.

3712

1 But you have a right to testify. You  
2 understand that?

3 DEFENDANT: Yes, sir.

4 THE COURT: But I would instruct the  
5 jury that they could not in any way use that  
6 against you. Obviously, if you testified, you  
7 understand that you would be subject to cross  
8 examination?

9 DEFENDANT: Yes, sir.

10 THE COURT: Are you satisfied with  
11 your lawyers?

12 DEFENDANT: Yes, sir.

13 THE COURT: Are you satisfied with  
14 the manner in which they've advised you in  
15 regard to this decision at this moment?

16 DEFENDANT: That's right.

17 THE COURT: Are you under the  
18 influence of any alcohol or any medications  
19 here today, sir?

20 DEFENDANT: No, sir.

21 THE COURT: Do you know of anything  
22 that's affecting your decision today to make a  
23 decision of this nature?

24 DEFENDANT: No, sir.

25 THE COURT: And you feel comfortable

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.

3713

1 with your decision?

2 DEFENDANT: Yes, sir.

3 THE COURT: Your attorneys have also  
4 talked with you and we will revisit this as  
5 well, but they've also talked with you that you  
6 have, as you've already exercised in the first  
7 phase, you have the right to address the jury  
8 again, should you choose to. You understand  
9 that?

10 DEFENDANT: Yes, sir.

11 THE COURT: At this point your  
12 decision, preliminarily, is that you do not  
13 think you're going to do that. Is that  
14 correct?

15 DEFENDANT: Yes, sir.

16 THE COURT: Again, we will revisit  
17 that before resting and before we start the  
18 arguments. But you understand fully that is  
19 your right and your lawyers have explained that  
20 to you?

21 DEFENDANT: Yes, sir.

22 THE COURT: And you have no  
23 questions about that?

24 DEFENDANT: No, sir.

25 THE COURT: Very well. Thank you

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

3714

1 very much, Mr. Dickerson. I appreciate it,  
2 sir.

3 Let the record reflect that I have  
4 examined Mr. Dickerson and I find that based  
5 upon his responses, as he's already  
6 demonstrated, he fully appreciates and  
7 understands his right to testify and not to  
8 testify. He's indicate that he's totally  
9 satisfied with his attorneys and again, as I  
10 stated in my observations in the first phase,  
11 that has continued in this phase, that there  
12 has been tremendous interaction between the  
13 attorneys and Mr. Dickerson, consulting him and  
14 advising him. He's been engaged in  
15 conversations, obviously with them.

16 I find that he has demonstrated and  
17 has stated that he fully appreciates and  
18 understands his rights and has elected at this  
19 point not to testify and not to speak to the  
20 jury or address the jury in a final argument.  
21 However, we will revisit that.

22 But I find the decision thus far one  
23 that he makes freely, voluntarily, knowingly  
24 and intelligently. And I thank him for his  
25 candid responses.

State of South Carolina v. William O. Dickerson      3715  
Case No. 06-GS-10-2981 et al  
Jury Trial of April 20 - May 7, 2009  
Before The Honorable R. Markley Dennis, Jr.

1                    Are we ready to proceed now, Mr.

2                    Bloom?

3                    MR. BLOOM:      We are ready to proceed.

4                    THE COURT:      Let's bring in our jury,  
5                    please.

6                    (JURY IN @ 11:17 A.M.)

7                    THE BAILIFF:    Jury is all present,  
8                    Your Honor.

9                    THE COURT:      Thank you very much, Mr.  
10                   Robinson (bailiff). Thank you. You may be  
11                   seated. Thank you, Ladies and Gentlemen.  
12                   We're ready to continue in this matter.

13                   Solicitor, as I understand the State  
14                   now rests?

15                   SOLICITOR WILSON:    Yes, sir, Your  
16                   Honor, the State rests.

17                   THE COURT:      Very well. And we have  
18                   heard Motions which are proper and appropriate  
19                   at this point. Those have been placed on the  
20                   record and now preserved, notwithstanding that  
21                   typically we would excuse you again and I would  
22                   go through the Motions process and hear those.  
23                   But we've already done that in your absence. I  
24                   will not excuse you, and the Motions are  
25                   properly and timely made.

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

3716

1 Does Mr. Dickerson wish to present any  
2 testimony at this stage, Mr. Bloom?

3 MR. BLOOM: We do intend to do so.

4 THE COURT: You may proceed, sir.

5 MR. BLOOM: Thank you, Your Honor.

6 We call Joseph Ladson.

7 (WITNESS TAKES STAND)

8 JOSEPH LADSON, being duly sworn to  
9 tell the truth, the whole truth and nothing but  
10 the truth, testified, as follows:

11 DIRECT EXAMINATION

12 BY MR. BLOOM:

13 Q. Mr. Ladson, please tell the jury where did  
14 you work, sir.

15 A. Detention Center.

16 Q. Would you spell your last name for the  
17 court reporter. I'm not sure if I got that?

18 A. L-A-D-S-O-N.

19 Q. Thank you, sir. And how long have you  
20 been a Detention Officer at the Charleston  
21 County jail?

22 A. Twenty-three years.

23 Q. So you've seen a lot of people come  
24 through?

25 A. Yes, sir.



- 1 Q. Have you had the opportunity to observe  
2 and supervise William Dickerson while he's been  
3 there?  
4 A. Yes, sir, he's been at Southside the whole  
5 time.  
6 Q. And how would you describe him as an  
7 inmate at Southside?  
8 A. Pretty quiet and civil. Gave me no  
9 problems.  
10 Q. He never gave you any problems?  
11 A. No.  
12 Q. How would you characterize him with  
13 reference to other people there? Was he one of  
14 the better inmates? One of the best inmate?  
15 A. Well, I run a tight ship and basically we  
16 don't have no problems with him at all.  
17 Q. I think you described him as being quiet?  
18 A. Yes, sir.  
19 Q. Has he always been cooperative with you?  
20 A. Yes, sir.  
21 Q. Followed your instructions?  
22 A. Yes, sir.  
23 Q. Was there a time you described him as you  
24 never knew that he was in the cell?  
25 A. He's so quiet, (affirmative nod).

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.

3718

1 Q. Can you explain what you mean by that?

2 A. Basically means how well he acted. Other  
3 inmates, they'll cut up, move around but I  
4 never had problems with William Dickerson.

5 Q. In fact, there were times when you were  
6 making cell assignments and some of the inmates  
7 were causing trouble and Mr. Williams was not.  
8 Can you describe that?

9 A. We had one incident where there was a guy  
10 walking around and he was -- he was basically  
11 inciting people who were fighting-like. I'd  
12 break it up.

13 Q. But you never had that problem out of  
14 William on that occasion?

15 A. No.

16 Q. I don't know if I asked this question. If  
17 I did, I apologize. Was he always respectful  
18 to you?

19 A. Yes, sir.

20 Q. On a scale of one to ten, with one being a  
21 really bad problem inmate and ten being the  
22 best inmate, where would you place him on that  
23 scale.

24 A. About seven.

25 Q. Thank you very much.

1 THE COURT: Cross examine.

2 CROSS EXAMINATION

3 BY BRUCE DURANT:

4 Q. Good afternoon -- good morning, Mr.  
5 Ladson.

6 A. Good morning.

7 Q. What cell block are you in at the jail?

8 A. Southside.

9 Q. And what unit?

10 A. South E.

11 Q. How long has it been since Mr. Dickerson's  
12 been in Unit South E?

13 A. Well, I it's been about -- well, I was  
14 with the work camp about a year, I got  
15 transferred from there, so I haven't been there  
16 in over there a year.

17 Q. So it's been a year since you've been at  
18 the jail?

19 A. Yes, sir.

20 Q. And do you know where he's housed at the  
21 jail now?

22 A. No.

23 Q. You didn't know he was in Unit 1A?

24 A. No, sir. When I transferred, I leave  
25 everything behind.

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.

3720

1 Q. What is Unit 1A at the jail, sir?

2 A. That's ---

3 MR. BLOOM: Judge, I'm going to  
4 object.

5 THE COURT: Sustained. I'm not  
6 going to allow that. Thank you.

7 BRUCE DURANT: May we be heard on  
8 that?

9 THE COURT: You may, Solicitor, if  
10 we can be heard after the jury's excused.  
11 Thank you.

12 CROSS EXAMINATION CONTINUED

13 BY BRUCE DURANT:

14 Q. Are you aware of him giving other  
15 detention officers problems at the jail?

16 A. No, sir.

17 Q. But you weren't there in December of 2008,  
18 is that correct?

19 A. No, sir.

20 Q. And you weren't there in November of 2007,  
21 is that correct?

22 A. That's correct.

23 Q. And the one instance you said you were  
24 involved in was what?

25 A. That was when on Southside when I was back

1 in uniform.

2 Q. And what was the incident again?

3 A. Another of the inmates was rattling  
4 around. He was fighting.

5 Q. He was fighting another inmate?

6 A. Yeah.

7 BRUCE DURANT: I have nothing  
8 further, Your Honor.

9 THE COURT: Redirect?

10 MR. BLOOM: Nothing.

11 THE COURT: You may come down.

12 (WITNESS EXCUSED)

13 THE COURT: Call your next witness.

14 MR. BLOOM: John Hewitt.

15 THE COURT: You'all approach,  
16 please.

17 (OFF RECORD BENCH CONFERENCE)

18 (WITNESS TAKES STAND)

19 JOHN HEWITT, being duly sworn to tell  
20 the truth, the whole truth and nothing but the  
21 truth, testified, as follows:

22 DIRECT EXAMINATION

23 BY MR. BLOOM:

24 Q. Spell your last name for the court  
25 reporter.

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.

3722

- 1 A. H-E-W-E-T-T.
- 2 Q. Of course, I can tell by your uniform, but
- 3 please tell us where you work, sir?
- 4 A. I work at the Charleston County Detention
- 5 Center.
- 6 Q. And how long have you been there?
- 7 A. Three and a half years.
- 8 Q. During that time have you had an
- 9 opportunity to observe Mr. William Dickerson,
- 10 Jr.?
- 11 A. Yes, I have.
- 12 Q. And have you ever had any problems out of
- 13 him, sir?
- 14 A. No, sir, I haven't.
- 15 Q. How would you describe him?
- 16 A. A mild mannered inmate. I don't have any
- 17 problems out of him.
- 18 Q. Was he always compliant with you?
- 19 A. Yes.
- 20 Q. Followed your instructions?
- 21 A. Yes.
- 22 Q. Did whatever he was asked to do?
- 23 A. That's right.
- 24 Q. If he a calming influence around the
- 25 younger inmates?

1 A. Yes, sir, I have observed that.

2 Q. Can you explain that for us, please?

3 A. Yes. There have been several occasions  
4 where we had a problem with an inmate who comes  
5 in. I'm a tactical officer and work in the  
6 housing unit. And we had inmates come in and  
7 as we bring them through, he'll tell the guys,  
8 'you do the right thing, man', you know.  
9 That's his attitude.

10 Q. He'll tell them to do the right thing?

11 A. Uh-huh, (affirmative nod).

12 Q. Does that help you all with your duties?

13 A. Yes, sir.

14 Q. Thank you very much. Please answer any  
15 questions the Solicitor may have.

16 THE COURT: Any questions?

17 CROSS EXAMINATION

18 BY SOLICITOR WILSON:

19 Q. Mr. Hewitt, you have always been  
20 respectful to Mr. Dickerson?

21 A. Yes, ma'am.

22 Q. And he's always been respectful back to  
23 you?

24 A. Yes, ma'am.

25 SOLICITOR WILSON: That's all I have.

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

3724

1 THE COURT: Redirect.

2 MR. BLOOM: Nothing further, Your  
3 Honor.

4 THE COURT: You may come down, sir.

5 MR. BLOOM: Stacy Simmons.

6 (WITNESS TAKES STAND)

7 STACY SIMMONS, being duly sworn to  
8 tell the truth, the whole truth and nothing but  
9 the truth, testified, as follows:

10 DIRECT EXAMINATION

11 BY MR. BLOOM:

12 Q. Again, like Officer Hewitt before you,  
13 obviously we can see where you work -- tell us  
14 where you work directly.

15 A. Charleston County Detention Center, 1A.

16 Q. And how long have you been there, sir?

17 A. Since 2007.

18 Q. And during that time period have you had  
19 an opportunity to observe or supervise Mr.  
20 Dickerson at any time?

21 A. Yes, I have.

22 Q. Has he ever given you any problem?

23 A. No, sir.

24 Q. Has he treated you with respect?

25 A. Respect runs both ways, (affirmative nod).



1 Q. Have you seen him help other inmates, in  
2 terms of giving them items that they may need  
3 that they don't have?

4 A. Yeah. If another inmate is out of soap or  
5 shampoo or what-ever-you, and he has some he'll  
6 give it -- share with them.

7 Q. How would you generally describe William  
8 in terms of either mild mannered or quiet or  
9 anything like that?

10 A. Most of the time he's pretty much quiet  
11 and laid back.

12 Q. Has his general behavior and adjustment  
13 while he's been there been good and positive,  
14 in your view?

15 A. Yes, sir.

16 MR. BLOOM: Please answer any  
17 questions the Solicitor may have.

18 THE COURT: Any questions?

19 CROSS EXAMINATION

20 BY SOLICITOR WILSON:

21 Q. In your experience with Mr. Dickerson, you  
22 said he was a good prisoner, mild mannered; is  
23 that right?

24 A. Yes.

25 Q. So you've never seen him yelling?

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.

3726

1 A. No, I haven't.

2 Q. You've never seen him angry?

3 A. I have seen him upset once. Yes, I have.

4 Q. Have you ever seen him angry?

5 A. No, ma'am.

6 SOLICITOR WILSON: That's all I have,  
7 Your Honor.

8 THE COURT: Redirect?

9 MR. BLOOM: None, Your Honor.

10 THE COURT: You may come down, sir.

11 (WITNESS EXCUSED)

12 MR. BLOOM: Curtis Hood.

13 (WITNESS TAKES STAND)

14 CURTIS HOOD, being duly sworn to tell  
15 the truth, the whole truth and nothing but the  
16 truth, testified, as follows:

17 DIRECT EXAMINATION

18 BY MR. BLOOM:

19 Q. Again, Officer, please tell us where you  
20 are employed.

21 A. Charleston County Detention Center, Unit  
22 1A.

23 Q. And how many years have you been there?

24 A. About three.

25 Q. During that time you've had opportunities

1 at various periods of time to observe and  
2 supervise Mr. Dickerson?

3 A. Yes.

4 Q. Can you describe him for us during those  
5 periods that you supervised him?

6 A. Very calm, quiet person, no odd behavior,  
7 a good inmate to have, helpful.

8 Q. Explain what you mean by a good inmate to  
9 have.

10 A. We have younger inmates come in who are  
11 very high-strung, very quick reactions. He  
12 cools them down and talks to them, helps with  
13 the younger inmates.

14 Q. That's what you also mean by helpful to  
15 you and your staff when he calms the younger  
16 inmates down?

17 A. Yes.

18 Q. How would you describe his general  
19 temperament?

20 A. Very nice. He's just a nice guy. Never  
21 causes no problems. I've got to know him over  
22 the last eight months, nine months. He's a  
23 pretty nice guy.

24 Q. Have you ever perceived him as a threat to  
25 you or any other officers?

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.

3728

1 A. No. I mean, obviously with the job it  
2 happens but -- I've seen some inmates that  
3 were, but no.

4 Q. I may have asked this, but I want to make  
5 sure. He's always been respectful of you?

6 A. Absolutely.

7 Q. And followed your instructions?

8 A. Yes, sir.

9 MR. BLOOM: Thank you, sir. Please  
10 answer any questions the Solicitor may have.

11 THE COURT: Cross examine.

12 CROSS EXAMINATION

13 BY BRUCE DURANT:

14 Q. Are you aware of problems he's had with  
15 others?

16 A. It's possible but none with me.

17 Q. None with you? Are aware of problems he's  
18 had with other officers?

19 A. No.

20 Q. Once again, have you ever seen him angry?

21 A. No.

22 Q. Have you ever had a disagreement with him?

23 A. Absolutely.

24 Q. Have you ever seen him when he's had a  
25 disagreement with someone and he's gotten

1     angry?

2     A.   Like I said I've never seen him angry, so

3     ---

4     Q.   Have you ever seen what he's done to  
5     someone when he gets angry?

6     A.   No.

7                 BRUCE DURANT:     I have nothing  
8     further.

9                 MR. BLOOM:     No redirect.

10                THE COURT:     You may come down, sir.

11                         (WITNESS EXCUSED)

12                MR. BLOOM:     David Gadeic.

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

16                         DIRECT EXAMINATION

17     BY MR. BLOOM:

18     Q.   Officer Gadeic, again, please tell us  
19     where you work?

20     A.   Charleston County Detention Center.

21     Q.   And how many years have you been employed  
22     there?

23     A.   I started in June of 2004.

24     Q.   During periods of time while you've been  
25     there have you had an opportunity to observe

1 and supervise William Dickerson?

2 A. Yes, I have.

3 Q. And what kind of inmate has he been for  
4 you, sir?

5 A. Well, my view of Mr. Dickerson, he has  
6 always been a calm, cool, collected-type  
7 person. We sat on several occasions just to  
8 have a general conversation. I've never had a  
9 problem with him. I'd say he's just a cool guy  
10 to be around.

11 Q. When you describe him as calm and cool,  
12 collected, have you observed him on occasions  
13 when he helped calm younger inmates down?

14 A. Yes, I have.

15 Q. Is that helpful to you and your staff?

16 A. Of course. In our line of work, any help  
17 we can get is good.

18 Q. In your view, has he adjusted and adapted  
19 well to the -- of course it's a restricted  
20 environment -- has he adjusted, is my simple  
21 question, in terms of his behavior?

22 A. That's hard to answer, because I don't  
23 know how his behavior might have been before I  
24 got there. But at times that I've been around  
25 him, you know, I can say he's adjusted in

1 certain moves throughout the jail.

2 Q. Would you rate him as one of the better  
3 inmates to have because of his calm, cool and  
4 helpful manner?

5 A. He's a cool guy to be around. I would say  
6 he's an easy person to be around.

7 Q. Has he always treated you with respect?

8 A. Of course.

9 MR. BLOOM: Thank you very much,  
10 sir. Please answer any questions from the  
11 Solicitor.

12 DEFENDANT: You're welcome.

13 THE COURT: Cross examine.

14 CROSS EXAMINATION

15 BY BRUCE DURANT:

16 Q. Once again, how much contact did you have  
17 with him over the years?

18 A. Well, I supervised on Southside for six or  
19 seven months.

20 Q. That's been a long time?

21 A. It's been a little while.

22 Q. So you haven't supervised him recently; is  
23 that correct?

24 A. Not recently.

25 Q. Because he hasn't been on Southside for a

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.

3732

1 long time; has he?

2 A. Of course.

3 Q. So how long has it been since you have had  
4 him to supervise?

5 A. I'd say roughly about two years or so.  
6 Although we do go -- with me being a transport  
7 officer, I do come into other areas. I have  
8 been in 1A where he's now located.

9 Q. And you've had no disagreements with him.

10 A. No disagreements, *per se*, no, sir.

11 Q. And you've never seen anybody he's had  
12 disagreements with?

13 A. I can't say that I have.

14 Q. And you've never seen him when he's angry?

15 A. I haven't seen him angry. Upset, yes.

16 Angry, no.

17 Q. And you haven't seen what he can do to  
18 someone when he's angry?

19 A. Actually, I haven't.

20 Q. Thank you, sir.

21 MR. BLOOM: No redirect.

22 THE COURT: You may come down, sir.

23 (WITNESS EXCUSED)

24 MR. CARROLL: The defense calls Barry  
25 Britt.



1 MR. BLOOM: Your Honor, if I could  
2 ask that the officers who just testified be  
3 excused.

4 THE COURT: Any objection?

5 SOLICITOR WILSON: No, sir.

6 THE COURT: They are free to go.

7 MR. CARROLL: Your Honor, I'm informed  
8 that Mr. Britt is not here at this moment.

9 THE COURT: Okay, call your next one  
10 then.

11 MR. BLOOM: Court's indulgence for  
12 one moment.

13 THE COURT: Okay.

14 MR. BLOOM: James Aiken.

15 (WITNESS TAKES STAND)

16 JAMES AIKEN, being duly sworn to tell  
17 the truth, the whole truth and nothing but the  
18 truth, testified, as follows:

19 DIRECT EXAMINATION

20 BY MR. BLOOM:

21 Q. Mr. Aiken, what is your area of expertise?

22 A. My area of expertise is risk assessment,  
23 better known as inmate classification and  
24 adaptability to a confinement setting.

25 Q. What is your educational background in

1 that regard?

2 A. I have an undergraduate degree from  
3 Benedict College, Columbia, South Carolina,  
4 bachelor of arts degree. I hold a master's  
5 degree from the University of South Carolina in  
6 Columbia also.

7 Q. What is your experience in the field of  
8 risk assessment and inmate adjustment?

9 A. It all has to do in the correctional  
10 setting, both jails, prisons and detention  
11 facilities. I started in this business in  
12 1971, approximately thirty-seven years ago. I  
13 was employed with the South Carolina Department  
14 of Corrections at the Manning Correctional  
15 Institution located in Columbia, South  
16 Carolina.

17 In that capacity, starting there, I was  
18 employed as a social worker or a substance  
19 abuse counselor in this medium-security prison;  
20 which means that it had -- maximum security,  
21 sensors, there's gun towers, dogs, man barrier  
22 wire, electronic accessories around the  
23 perimeter but inmates could gradually move from  
24 point A to point B without the maximum security  
25 protocols. Medium security is when you allow

1 the movement of inmates.

2 At that particular time it was interesting  
3 in that customs of these treatments were moving  
4 away from the so-called treatment model towards  
5 more a work model. And what I mean by that is  
6 that inmates went to work. And when they  
7 finished their work, then we talked in therapy  
8 groups, et cetera, at night after the full day  
9 had been completed.

10 Q. Let me stop you there, sir, because that  
11 wouldn't apply to this case.

12 A. Certainly.

13 Q. If we can move forward then, because it  
14 doesn't apply to the case, and let me ask you  
15 what other experience in the field do you have  
16 as a warden or in that regard?

17 A. Very well. I was in the capacity of  
18 deputy warden of that particular facility.

19 I was deputy warden at the state  
20 penitentiary in South Carolina.

21 I was the warden of a women's prison in  
22 South Carolina.

23 I was also the warden of the state  
24 penitentiary in South Carolina.

25 I was the regional deputy administrator

1 supervising fifteen facilities, ranging from  
2 minimum security to super maximum security.

3 I was also appointed Corrections  
4 Commissioner for the State of Indiana,  
5 supervising approximately forty-six or forty-  
6 seven prisons within that system, from  
7 juveniles to adults, from minimum security all  
8 the way through super maximum security.

9 I was also Director of Corrections in the  
10 United States Virgin Islands where I had jails  
11 as well as juveniles as well as adult prison  
12 facilities.

13 Q. All right, sir. And you've also had  
14 teaching experience where you've taught other  
15 wardens and other people in the field of prison  
16 adjustment?

17 A. That is correct, sir. I was in the  
18 capacity of a consultant, starting back when I  
19 was a warden at the state penitentiary.

20 I was approached by the United States  
21 Department of Justice to provide expert  
22 assistance in high-security matters throughout  
23 the United States, ranging from classification  
24 of inmate population, risk assessment -- which  
25 I have done that in all positions that I've

1 held, as I shared with you. I have riot  
2 control, managing hard-to-manage, violent  
3 inmates, teaching new wardens how to warden,  
4 teaching existing wardens how to be better  
5 wardens, as well as teaching wardens how to be  
6 wardens of super maximum security prisons.

7 Q. Let me just stop you there, if I may.  
8 Lastly, in terms of your experience in this  
9 field, you've served on particularly a United  
10 States Commission?

11 A. Yes.

12 Q. Describe that briefly, if you would.

13 A. I was appointed by the United States  
14 Congress to a commission, a Presidential  
15 commission, that was appointed by the  
16 leadership of the House and Senate as well as  
17 the President of the United States to come up  
18 with standards to eliminate prison rape within  
19 county, local, regional, federal as well as  
20 state facilities; and these standards will be  
21 coming out very soon.

22 Q. How many times have you testified  
23 approximately as an expert in the field of risk  
24 assessment and inmate adjustment?

25 A. I would say at least seventy-five times or

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.

3738

1 more.

2 Q. What jurisdictions or states would that  
3 include, just generally?

4 A. Generally speaking, on federal as well as  
5 state levels: Florida, Georgia, South  
6 Carolina, North Carolina, Virginia, Delaware,  
7 Maryland, Connecticut, Indiana, Louisiana,  
8 Texas, Alabama, Mississippi, Arizona, Oregon,  
9 Indiana. I'm sure I'm leaving a few out.

10 Q. Thank you.

11 MR. BLOOM: Your Honor, at this time  
12 I would move to have Mr. Aiken qualified as an  
13 expert in the field of risk assessment and  
14 inmate adjustment.

15 THE COURT: Do you care to examine  
16 his qualifications?

17 BRUCE DURANT: No objection.

18 THE COURT: You will be permitted to  
19 render opinions in those areas.

20 THE WITNESS: Thank you, Your  
21 Honor.

22 MR. BLOOM: Thank you, Your Honor.

23 DIRECT EXAMINATION CONTINUED

24 BY MR. BLOOM:

25 Q. Mr. Aiken, let me start, as an expert in

1 the field of risk assessment and inmate  
2 adjustment in prisons, what type of records do  
3 you review?

4 A. I review confinement records, convictions,  
5 as well as information gathered and shared by  
6 those people that supervise the inmate.

7 Q. All right. Why are those important?

8 A. They give me a better insight as to how  
9 this person has adapted to both confinement  
10 settings and the management needs of that  
11 person during confinement.

12 Q. Does that also include interviews or  
13 statements made by detention officers or  
14 correctional officers who supervise that  
15 inmate?

16 A. That is correct, sir.

17 Q. And why are those important?

18 A. Those are important because it gives me an  
19 insight into those people that have to manage  
20 him on a day-to-day basis.

21 Q. Any other information that you may review  
22 in that process, that I may have left out.

23 A. Other information is, of course, being in  
24 this business for thirty-seven years and  
25 classifying and evaluating inmates, as well as

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.

3740

1 my qualifications. I not only just read the  
2 statements and read the records, I interpreted  
3 based on that.

4 Q. And what records, generally, did you  
5 review in this case, just generally?

6 A. I reviewed his juvenile records at the  
7 reception center, SCDC records.

8 Q. What is SCDC? Just tell us what that  
9 means?

10 A. Department of Corrections, South Carolina  
11 State Department of Corrections.

12 Q. Go ahead.

13 A. As well as the Charleston County records  
14 from the detention facility, as well as the  
15 testimony that was provided for me, as well as  
16 some written statements from those individuals.

17 Q. Again, generally, why is it important to  
18 review those records about William Dickerson  
19 individually?

20 A. It gives me the picture. It gives me  
21 interpretation from an prison expert's  
22 perspective as to the adaptability, as well as  
23 the risk assessment/classification of the  
24 inmate.

25 Q. And what general conclusions, if we can



1 start there, did you reach regarding William  
2 Dickerson in particular?

3 A. Mr. Dickerson can be managed in a  
4 confinement setting for the remainder of his  
5 life without a risk of harm to staff, inmates  
6 or the general community.

7 Q. In that regard, what specific conclusions  
8 did you reach regarding his particular  
9 adjustment to incarceration under a potential  
10 life without parole sentence?

11 A. He has adjusted very well. He will always  
12 be in a high security setting because of the  
13 conviction. It won't matter how good or bad he  
14 is, he will stay in a high security setting in  
15 order to protect the staff, inmates as well as  
16 the general community. And that he's adjusted  
17 extremely well.

18 Q. What general conclusions did you reach  
19 regarding William Dickerson as to whether or  
20 not he would be a difficult inmate to manage?

21 A. He is not a difficult inmate to manage.  
22 He can be managed and he will adapt to and has  
23 adapted to confinement settings, for the  
24 remainder of his life.

25 Q. What general conclusion did you reach

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.

3742

1 about William Dickerson as to whether or not he  
2 will be a potential future risk to officers or  
3 staff?

4 A. The future risk to officers and staff is  
5 minimal due to the fact of his adjustment to  
6 the confinement setting over the fourteen or  
7 fifteen years that he has been involved in  
8 confinement settings.

9 Q. And that's what I want to ask you next.  
10 The incarcerations of Mr. Dickerson which  
11 you've mentioned to the jury, includes the time  
12 in the Department of Juvenile Justice,  
13 incarceration at the Charleston County  
14 Detention Center as well as prior  
15 incarcerations in the South Carolina Department  
16 of Corrections. So it's approximately how  
17 many years of his history that you were able to  
18 review?

19 A. I'm just guessing right now, approximately  
20 fourteen or fifteen years.

21 Q. Is that a substantial amount of  
22 information that you had for Mr. Dickerson to  
23 make a proper assessment?

24 A. Assessment, yes. Extreme, yes. Because  
25 oftentimes we don't have that track record.

1 Q. Let me back up. Of that approximate  
2 fourteen or fifteen years, how long was he in  
3 the Department of Juvenile Justice facilities,  
4 as you were able to look at his records?

5 A. He was in the juvenile justice system  
6 approximately forty-five days.

7 Q. And how long was he initially in the South  
8 Carolina Department of Corrections on a prior  
9 conviction of assault of a high and aggravated  
10 nature and strong armed robbery and one case of  
11 youthful offender, of approximately how long?

12 A. Approximately twelve to thirteen months or  
13 one year. That's called the Youthful Offender  
14 Act.

15 Q. And then there was a second incident that  
16 this jury has heard a conviction of regarding  
17 assault against police officers with a weapon  
18 and firearms. How long was that incarceration,  
19 approximately?

20 A. Approximately two years.

21 Q. And you also had his incarceration history  
22 at the County Detention Center here, from the  
23 time of his arrest until this trial. Is that  
24 correct?

25 A. That is correct, and that's approximately

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.

3744

1 three years.

2 Q. Let me go to that specifically. Did you  
3 review the incident report, witness statements  
4 and other materials that related to alleged  
5 assault on an officer this jury has heard  
6 testimony about at the Detention Center on or  
7 about December 7<sup>th</sup> of 2008?

8 A. Yes, sir, it was in the files provided to  
9 me.

10 Q. What are your specific findings as an  
11 expert in your field regarding that?

12 BRUCE DURANT: Your Honor, could  
13 we take up a matter of law?

14 THE COURT: All right. I'll allow  
15 you to go to your jury room. Do not begin your  
16 deliberations. We'll be with you momentarily.

17 (JURY OUT @ 11:52 A.M.)

18 THE COURT: Please be seated. Yes,  
19 sir?

20 BRUCE DURANT: My objection is  
21 quite possibly is to its relevance, Your Honor.  
22 It's possible if this witness testifies  
23 concerning the examination of the records of  
24 that particular incident regarding his  
25 adaptability to prison life -- if he wants to

1     testify that he can adapt to prison, I think  
2     that's fine and good.

3             But if he's going to put this witness  
4     up there to testify as to the credibility of  
5     witnesses, based upon a record that he has read  
6     ---

7             THE COURT:     I haven't heard the  
8     questions, so I don't know what he's going to  
9     testify to. I know this, obviously that allows  
10    some extensive cross-examination which allows  
11    you to testify by asking these questions.  
12    Because while he can't ask, you can ask about,  
13    'well, did you talk to witness so-and-so who  
14    said such-and-such?' Because under the rules  
15    of experts, you're entitled to bring out any  
16    hearsay testimony. He can't, but you are.

17            BRUCE DURANT:     Okay.

18            THE COURT:     I don't know what he's  
19    going to ask.

20            BRUCE DURANT:     Okay.

21            THE COURT:     I can't rule on that.

22            MR. BLOOM:     Your Honor, the answer  
23    would be ---

24            THE COURT:     You don't have to answer  
25    the question, Mr. Bloom. We have Rules that

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

3746

1     govern this. It's a double-edged -- this  
2     witness is a double-edged sword. Because  
3     obviously he's said he's adaptable, and that  
4     opens the door to some specific questions about  
5     how does this make someone adaptable. That is  
6     just -- I anticipate maybe some questions along  
7     those lines. I may be wrong, but I don't know.  
8     That's fine. Okay, let's bring in the jury. I  
9     note your objection, Solicitor.

10            BRUCE DURANT:        Thank you, Your  
11     Honor.

12            MR. BLOOM:        Judge, I'm keeping it  
13     very limited.

14            THE COURT:        Just for your  
15     information, I was reading some cases -- they  
16     have restricted -- defined "cumulative". Be  
17     careful. Because I allowed you to put up four  
18     people who said the same thing. At some point  
19     I'm going to draw the line. So you pick and  
20     choose what your questions are.

21            MR. BLOOM:        Yes, sir.

22                    (JURY IN @ 11:55 A.M.)

23            THE BAILIFF:       Jury is all present,  
24     Your Honor.

25            THE COURT:        Thank you very much.

1 Please be seated. Thank you. You may continue  
2 your examination, Mr. Bloom.

3 MR. BLOOM: Thank you, Your Honor.

4 THE COURT: Yes, sir.

5 DIRECT EXAMINATION CONTINUED

6 BY MR. BLOOM:

7 Q. Mr. Aiken, what were your very specific  
8 finding regarding that assault incident on  
9 staff members on December 7<sup>th</sup>, 2008?

10 A. My specific finding was that it was an  
11 aberration. It didn't fit the behavior pattern  
12 of Mr. Dickerson in all the years he was  
13 incarcerated.

14 Number two is that in reviewing the  
15 documents, the door to the cell should have  
16 been closed until both inmates were restrained.

17 Q. What do you mean "restrained",  
18 specifically?

19 A. Handcuffed.

20 Q. In the Department of Corrections is that  
21 how inmates are normally removed from a cell?

22 A. That's standard correctional practice when  
23 you're going in for a shake-down.

24 Q. Let me go to one part of that. You've  
25 reviewed, I think you've told us, Mr.

1 Dickerson's approximate fifteen-year history  
2 where he's been in different facilities. Is  
3 that correct?

4 A. That's correct, sir.

5 Q. Is there any other assault on an officer  
6 in any of those fifteen-year histories, other  
7 than that one isolated incident?

8 A. No.

9 Q. Any other incident of an assault on a  
10 staff member in that fifteen-year history?

11 A. No.

12 Q. Why is that significant to you, as an  
13 expert in this field?

14 A. Because institutional behavior is a good  
15 predictor of future institutional behavior in  
16 that inmate population. Especially being  
17 incarcerated for this period of time would  
18 demonstrate this behavior. Unfortunately, many  
19 of them do it in a harmful manner.

20 Q. When you say crime standard, would you  
21 explain that please?

22 A. I've had to use force situations on  
23 inmates and inmates regarding staff on multiple  
... times within in a 24-hour period. And this has  
25 continued week after week until we controlled



1     that behavior. And this population is better  
2     known as a destructive or disruptive  
3     population. And I don't see any signs of that  
4     in the records that I had an opportunity to  
5     review.

6     Q. And not a single, other than the one  
7     incident we were told about -- again, not a  
8     single other assault on correctional officers  
9     or staff?

10    A. That is correct, sir.

11    Q. When you reviewed that fifteen-year  
12    history, did the absence of certain types of  
13    incidents also help you in forming your  
14    conclusions as an expert?

15    A. Yes, it's commonly addressed as what --  
16    not necessarily what's in a record, but also  
17    equally what's not in the records. That is  
18    correct, sir.

19    Q. And if we can go through some of the  
20    things that's not in Mr. Dickerson's record.  
21    Let me ask you first, have you ever seen him in  
22    possession of any weapon in the fifteen-year  
23    history you reviewed? Was there any incident  
24    where he was ever in possession of any weapons?

25    A. No, sir.

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

3750

1 Q. Have you ever seen any indication of gang  
2 behavior or gang activity?

3 A. No, sir.

4 Q. Is that something that is investigated and  
5 reviewed within the Department of Corrections?

6 A. Most definitely. These types of behavior  
7 patterns or behaviors are things that are well  
8 documented in the general record.

9 Q. Was there any evidence of any serious  
10 violence?

11 A. No, sir.

12 Q. Was there any evidence of crimes, as  
13 you've described?

14 A. No, sir.

15 Q. Any evidence of any charges of  
16 disrespecting officers?

17 A. Not that I can recall.

18 Q. That is a charge that inmates can be  
19 written up for, disrespect to an officer?

20 A. That is correct. You have to understand  
21 that in a confinement setting, you are watched  
22 twenty-four hours a day, seven days a week,  
23 three hundred and sixty-five days a year. And  
24 everything is basically documented. And you'll  
25 find especially chronic or disruptive behavior

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.

3751

1 is well documented.

2 Q. Have you ever seen any indication in the  
3 fifteen years of that incarceration history  
4 that he was ever gassed?

5 A. No, sir. I didn't see any form of  
6 chemical emissions to control his behavior.

7 No, sir.

8 Q. Explain that to the jury.

9 A. Beg your pardon?

10 Q. Explain that to the jury, what that means.

11 A. Chemical emissions is the use of tear gas  
12 or the use of other chemicals on an individual  
13 to control their behavior. It causes their  
14 eyes to water, some people regurgitate. So  
15 it's a use-of-force tool, one of many tools  
16 that we have available to restrain and control  
17 behavior.

18 Q. Have you ever seen any evidence of the use  
19 of electrical shock as a use-of-force?

20 A. No, sir. I didn't see any evidence where  
21 he was tasered by any officer to control bad  
22 behavior. And I didn't see the employment of  
23 such things as a stun belt, which is a belt  
24 that's tied around the waist, and a person can  
25 press a button and it will send an electrical

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.

3752

1 charge into the individual to control behavior.

2 I did not see that.

3 Q. Have you ever seen any evidence in that  
4 fifteen-year history where a restraint chair  
5 was used?

6 A. No, sir.

7 Q. Explain what that is, sir?

8 A. A restraint chair is a special tool that  
9 we use to control behavior where we can take an  
10 inmate out of the cell after, for example, a  
11 forced cell movement, and tie that individual  
12 into the restraint chair where the individually  
13 cannot move. But staff can move the inmate  
14 from point A to point B without any problems of  
15 assault or things of that nature.

16 Q. Did you ever see any evidence in that  
17 fifteen-year history that he was ever subjected  
18 to a four-point restraint?

19 A. No, sir.

20 Q. And what is that?

21 A. A four-point restraint -- and some  
22 agencies use this restraint where an inmate's  
23 behavior has to be controlled, where there's  
24 kicking and biting and scratching and things of  
25 that nature -- toward staff especially. You

1 tie that individual down to a bed, usually a  
2 metal bed with a small mattress on it, his  
3 hands, his feet, his torso, his mouth, in order  
4 to control all behaviors that would be  
5 disruptive from the inmate. It's employed as a  
6 tool to control behavior within prison  
7 environments.

8 Q. And given, then, the number of items we've  
9 just reviewed in terms of what you've not seen  
10 in this fifteen-year history, what would be  
11 your conclusion about his adjustment to prison  
12 and correctional staff?

13 A. Obviously he could be housed and managed  
14 adequately in a prison environment for his  
15 custody level without causing undue risk of  
16 harm to staff or inmates, as well as the  
17 general public.

18 Q. And you referenced his custody level.  
19 What would that be, based on the conviction in  
20 this case?

21 A. He will always be in security level three  
22 within the South Carolina Department of  
23 Corrections. It's the highest level,  
24 basically, other than -- it would be the  
25 highest level for an inmate. And that inmate

1 will stay there. He will stay there because of  
2 his conviction, no matter how good he is or how  
3 bad he is.

4 Q. And that's based on your review of the  
5 fifteen-year history of available records?

6 A. That is correct, sir.

7 Q. And, again -- well, let me just ask,  
8 finally, is fifteen years, in your experience,  
9 an adequate history to use, a more-than-  
10 adequate, a slightly adequate? What kind of  
11 level of confidence do you have, given the  
12 fifteen-year history of his incarceration and  
13 the lack of or absence of things you told us  
14 about, in terms of lack of the other items  
15 you've referenced?

16 A. Extremely adequate. And the reason why,  
17 very simply, is this: You often don't have a  
18 fifteen-year history of incarceration in  
19 looking at behavior and having that behavior  
20 documented over that period of time. That's  
21 number one.

22 And as I stated before, your institutional  
23 behavior is a very good predictor of that  
24 future institutional behavior, and can a prison  
25 system manage that behavior. And the answer is

1 obviously yes.

2 And there is another factor that's  
3 involved in those fifteen years, and that's the  
4 person is getting older.

5 Q. Explain the significance of that, in your  
6 view and based on your experience.

7 A. Well, I'll use myself as an example. I'm  
8 not the person I was when I was seventeen years  
9 old. When you are younger, you are more  
10 immature. You're more impulsive. You're more  
11 prone to anger. You demonstrate immature  
12 behavior patterns. As you get older you tend  
13 not to demonstrate those behavior patterns --  
14 and I'm not a psychiatrist, but you will get  
15 older. You worry more about arthritis than  
16 some other things that you did not worry about  
17 when you were seventeen years old. In a prison  
18 system, that magnifies. That intensifies. So  
19 when you start getting around thirty to thirty-  
20 five years of age -- and this is based on my  
21 classification in managing thousands and  
22 thousands of inmates -- you drop off. That's  
23 what we call a drop off. About mid-thirties  
24 you begin to demonstrate more mature behavior  
25 patterns.

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.

3756

1           You will have bumps and grinds along the  
2   way, but the person begins to not only burn  
3   out, they burn up, especially being in a prison  
4   system where they're very compliant. They know  
5   what the routine is. And you know a lot about  
6   it. Does it mean that it's taken for granted?  
7   No. You're in a high security setting and you  
8   keep an eye on it. But the point is that  
9   you're on a downward slope.

10           MR. BLOOM:     Thank you very much,  
11   sir. Please answer any questions from the  
12   Solicitor.

13           THE WITNESS:   You're quite welcome,  
14   sir.

15                           CROSS EXAMINATION

16   BY BRUCE DURANT:

17   Q.   Good afternoon, Mr. Aiken. How are you?

18   A.   Just fine, sir. How are you?

19   Q.   I'm doing well. Thank you. I just have a  
20   few questions that I want to ask you, and we  
21   shouldn't be too long. You do this quite a  
22   bit, do you not?

23   A.   Yes, sir.

24   Q.   And you've testified quite a bit in death  
25   penalty cases?



1 A. I have, sir, yes.

2 Q. And you've testified always for the  
3 defendant?

4 A. I've only been asked for the defense.

5 Q. Okay. And the fact of the matter is  
6 you've never testified that anybody was not  
7 adaptable to prison, have you?

8 A. Well, I have provided information to  
9 attorneys and they've told me 'don't come to  
10 the courthouse.'

11 Q. But you've never taken the stand and  
12 testified in any of your seventy-five times  
13 that somebody could not be managed in prison?

14 A. I have provided testimony in a case where  
15 I told the jury that this person was at the  
16 highest level of probability to cause an  
17 endangerment. Yes, I have.

18 Q. But you still testified that he could be  
19 managed in prison?

20 A. Yes. You can be managed in prison, even  
21 though you are at what I call an unacceptable  
22 level of endangerment.

23 Q. Because, quite frankly, sir, anybody could  
24 be managed in prison. Isn't that the case?

25 A. Yes, sir.

1 Q. And isn't it true that Mr. Dickerson's had  
2 a lot of practice being in prison?

3 A. Beg your pardon?

4 Q. Mr. Dickerson has had a lot of practice at  
5 being in prison?

6 A. He has been incarcerated for an extended  
7 period. That is correct, sir.

8 Q. And you are aware that he was basically  
9 incarcerated from November 26 of 1993, when he  
10 was arrested for an Hester Park armed robbery,  
11 until he was paroled for that offense on March  
12 the 30<sup>th</sup> of 1995?

13 A. I'll accept your dates on that. I don't  
14 have them in front of me.

15 Q. And then he was out of jail for about --  
16 it looks like thirteen months, when he got  
17 arrested in the shooting incident involving the  
18 police officers. Basically he was incarcerated  
19 then from May the 17<sup>th</sup> of 1996 until September  
20 the 1<sup>st</sup> of 2005, when he was released on  
21 probation.

22 A. I accept your dates on that, sir.

23 Q. Okay. And then he was out for about six  
24 months before he was arrested for murder in  
25 this case. And he's been incarcerated ever

1 since. Is that correct?

2 A. Yes, sir. I will accept your dates. I  
3 don't have them in front of me.

4 Q. So pretty much his entire life since he  
5 was seventeen, he's been incarcerated?

6 A. In and out, (affirmative nod). Yes, sir.

7 Q. Now, of course, as part of your  
8 investigation you went through the -- you said  
9 you reviewed the SCDC records. Is that  
10 correct?

11 A. That's correct, as provided by counsel.

12 Q. And he hasn't been a bad prisoner in terms  
13 of -- I mean, you have some really bad  
14 prisoners out there. Is that correct?

15 A. Yes, sir.

16 Q. And he's not what you would call a really  
17 bad prisoner?

18 A. That is correct.

19 Q. At least in the past. But he hasn't been  
20 a perfect prisoner?

21 A. I've never seen a perfect prisoner, sir.  
22 You're exactly right.

23 Q. I was interested to note that on at least  
24 four occasions, between 2001 -- March of 2001  
25 and October of 2004, during his last

1 incarceration -- that he was disciplined in the  
2 prison system for narcotics use.

3 A. For substance abuse. That is correct,  
4 sir.

5 Q. Okay. And how is it that he was able to  
6 obtain controlled substances in prison?

7 A. Well, that's the reason why I'm bald-  
8 headed today, sir. Contraband control is a  
9 continual situation within the prison systems.  
10 I am much advised as of late that with new  
11 technology the interdiction is really gaining  
12 on that.

13 Q. But the fact of the matter is that stuff  
14 is available in prisons, is it not?

15 A. If any individual would tell you that it's  
16 never getting into their prison, they need to  
17 change their vocation.

18 Q. Because it does, in fact. A lot of this  
19 stuff is really small and easy to smuggle; is  
20 it not?

21 A. Well, there's always a way. And there's  
22 always another way to interdict it. They've  
23 done a very good job as of late in interdiction  
24 of contraband coming in.

25 Q. So that obviously must have been since

1 2004 because that's the last time he was in  
2 prison?

3 A. I didn't say absolutely, one hundred  
4 percent.

5 Q. And he also had other disciplinary  
6 violations while he was in jail and a number of  
7 those had to do with failing to or refusing to  
8 obey orders of detention officers.

9 A. Yes, minor; on the scale of immaturity,  
10 more than violation.

11 Q. And there's one other thing I want to ask  
12 you about. You had indicated that the incident  
13 at the jail here in December of 2008 being an  
14 aberration, and the door to the cell should  
15 have been shut during the shakedown. I wasn't  
16 really understanding what you were talking  
17 about there. Could you explain that to me?

18 A. What part do you wish for me to explain?

19 Q. You said that the guards should have shut  
20 the door during the shakedown. Don't the  
21 inmates have to be removed from the cell before  
22 you can shake down the cell?

23 A. That's correct.

24 Q. Okay. And what if the fight broke out  
25 before they had exited the cell?

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.

3762

1 A. The fight between who?

2 Q. Assuming that -- there's testimony that as  
3 one of the inmates exited the cell and one of  
4 the detention officers went in that the inmate  
5 turned on him, is what it was.

6 A. Yes.

7 Q. I was just kind of curious as to how  
8 shutting the door in that situation would work.

9 A. I'm going backwards more than forward,  
10 sir. When you approach the cell, you order  
11 inmates to back up and cuff up. Both inmates  
12 are restrained before you -- as they call it,  
13 "pop the lock," or open the door in the first  
14 place.

15 Q. So it was the detention officer's fault?

16 A. I was asked to make an observation based  
17 on thousands of transactions.

18 BRUCE DURANT: Court's indulgence,  
19 please.

20 THE COURT: Certainly.

21 BRUCE DURANT: Thank you, Mr. Aiken.  
22 I have nothing further.

23 THE COURT: Redirect?

24 MR. BLOOM: Very briefly.

25 REDIRECT EXAMINATION

1 BY MR. BLOOM:

2 Q. Mr. Aiken, on that last point, I just want  
3 to clarify. Your answer to the Solicitor on  
4 the last question was the inmates are supposed  
5 to back up and cuff up?

6 A. That's correct, sir.

7 Q. Is there a hole in the metal door of the  
8 cell where that's done?

9 A. Usually there is a food slot there or the  
10 door can just be partially opened, which they  
11 can be basically cuffed up before you open the  
12 door all the way.

13 Q. I just wanted to make sure I understood  
14 your answer. Next, he asked you about four  
15 times when Mr. Dickerson testified positive for  
16 drugs in the Department of Corrections. What  
17 drug was that, if you recall, from the records?

18 A. I'm going from memory, I think I was  
19 marijuana.

20 Q. Negative for cocaine?

21 A. I think so. That's correct.

22 Q. Positive for marijuana?

23 A. Yes, sir.

24 Q. Is that why cell searches are routinely  
25 done at the Department of Corrections?

1 A. Continuously done, yes, sir.

2 Q. And there's no doubt -- well, let me go  
3 back. I think the Solicitor asked you that Mr.  
4 Dickerson, over that fifteen-year history, was  
5 not a really bad prisoner. And you agreed that  
6 he was actually a good inmate, could you  
7 elaborate on that?

8 A. As was stated in previous testimony, he's  
9 at the extreme level for compliance.  
10 "Compliance" that is being told what to do, why  
11 to do it, when to do it in a prison  
12 environment. He has done this over fifteen  
13 years and that puts him at a very favorable,  
14 extreme level in the sequence or the variance  
15 of inmate behavior while incarcerated.

16 Q. All right, sir. In that regard, the  
17 Solicitor asked you about one of his  
18 disciplinary infractions at the Department of  
19 Corrections, that is refusing to obey an  
20 officer? Was that where Mr. Dickerson used the  
21 word "damn"?

22 A. I think so.

23 Q. And he was written up for that?

24 A. You can get written up for anything in a  
25 prison setting. And, most often, everything is



1 documented; any type of behavior, even making  
2 the comment "damn", that's a write-up, that's  
3 disciplinary.

4 Q. And that's why, in the review of those  
5 records overall, that the mere absence of  
6 things such as the possession of weapons,  
7 assault on the staff, assault on officers --  
8 and I won't go through the whole list, but that  
9 list that we went through -- is significant to  
10 you; because that you don't see any of that?

11 A. That's correct, sir. And I'm not saying  
12 it to be facetious but I've had inmates who  
13 have that many disciplinaries in fifteen days  
14 versus fifteen years, and continued that  
15 behavior after fifteen days.

16 Q. Lastly, I just have a few wrap-up  
17 questions. The Solicitor asked you about your  
18 testimony in other cases and possible bias. In  
19 your years as a warden in different facilities  
20 in South Carolina, have you ever had to use  
21 lethal force on an inmate?

22 A. Not in South Carolina. In Indiana, I had  
23 to use lethal force. I had a hostage situation  
24 and I ordered a sniper to kill an inmate, and  
25 I've executed two inmates.

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.

3766

1 BRUCE DURANT: Objection.

2 THE COURT: I'll allow it.

3 MR. BLOOM: Thank you.

4 THE WITNESS: Yes, I ordered a sniper,  
5 a well-trained sniper, to kill an inmate while  
6 he was still holding a hostage. And I've  
7 executed two inmates personally.

8 MR. BLOOM: Thank you, sir.

9 THE COURT: Recross, Mr. Durant.

10 RECROSS EXAMINATION

11 BY BRUCE DURANT:

12 Q. Just a couple. Just out of curiosity, how  
13 often do they drug test inmates? Do you know?

14 A. It's basically a random drug test. Your  
15 number may come up twice or three times a year  
16 or maybe more often, depending on the system.

17 Q. Depending on the funding, too, probably  
18 now.

19 MR. BLOOM: Object to that, Your  
20 Honor.

21 THE COURT: Overruled.

22 THE WITNESS: Not necessarily so.  
23 We will find that many systems know where to  
24 cut, even though those cuts may be pretty  
25 rough.

1                   REXCROSS EXAMINATION CONTINUED

2           BY BRUCE DURANT:

3           Q.   And let's face it, the cuts have been  
4           pretty rough on prisons as well as the rest of  
5           State agencies. Is that correct?

6           A.   Yes, sir. And as a result you go into  
7           different modalities, so to speak, such as lock  
8           downs, that reduces the costs and improves  
9           security, for example.

10          Q.   Just a couple more and I will be done. He  
11          was written up for refusing to obey an order;  
12          is that correct?

13          A.   I don't have them in front of me, but  
14          there were minor disciplinary violations for  
15          which he was reprimanded, loss of canteen and  
16          things like that.

17          Q.   Are you aware that he was found guilty of  
18          fighting on July 13<sup>th</sup> of 2004?

19          A.   2004? In what facility was that, sir?

20          Q.   That would have been -- do you want to see  
21          the records, sir?

22          A.   If you don't mind.

23                    BRUCE DURANT:    I guess we ought to  
24          mark these for identification.

25                    COURT REPORTER:   State's Exhibit 347

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.

3768

1 for identification.

2 RECROSS EXAMINATION CONTINUED

3 BY BRUCE DURANT:

4 Q. I show you State's Exhibit 347 for  
5 identification. This would be what's called  
6 the warden's jacket on Mr. Dickerson. Is that  
7 correct?

8 A. It seems like it, yes, sir.

9 Q. I believe this is one. Does that tell  
10 what institution it was at?

11 A. It just says "South Carolina Department of  
12 Corrections."

13 Q. Is that it there?

14 A. Georgetown, at Ridgeland. Yes, sir.

15 Q. That was at Ridgeland. He was found  
16 guilty of fighting on that occasion?

17 A. Yes, sir, fighting without a weapon; which  
18 is highly significant.

19 Q. We've already been through his  
20 disciplinaries where he was tested for  
21 narcotics. He was found guilty of refusing to  
22 work on July 2<sup>nd</sup> of '99. Could you direct your  
23 attention to Page 356 of the records.

24 . I'm sorry, sir. I thought you were just  
25 stating it. I didn't know you were asking me.

1 Q. And I don't want to go any further. But  
2 the fact of the matter is, as I said, he's not  
3 the worst prisoner. He's not the best  
4 prisoner. Is that correct?

5 A. But he's at that level of being a very  
6 well-managed inmate.

7 BRUCE DURANT: I have nothing  
8 further. Thank you very much for your  
9 testimony.

10 THE COURT: Thank you very much, Mr.  
11 Aiken. Do you wish for this witness to be  
12 excused?

13 MR. BLOOM: If I could just have a  
14 moment?

15 THE COURT: No, sir.

16 MR. BLOOM: Thank you, Your Honor.

17 THE COURT: Thank you very much.  
18 You may step down, and do you wish him to be  
19 excused?

20 MR. BLOOM: Yes, Your Honor.

21 THE COURT: Any objection?

22 BRUCE DURANT: No, sir.

23 THE COURT: You are also free to  
24 leave, sir.

25 THE WITNESS: Have a good day, sir.

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

3770

1 THE COURT: You also, sir.

2 (WITNESS STEPS DOWN)

3 THE COURT: Ladies and gentlemen, at  
4 this point we'll take our recess for lunch.  
5 It's my understanding they're expecting you at  
6 about 12:30. We'll let you have lunch and  
7 we'll be ready -- let's return to your jury  
8 room by 1:45, and we'll resume at that time.  
9 Have a good lunch. Enjoy. Thank you. Of  
10 course, don't discuss the case among yourselves  
11 while you have lunch.

12 (JURY OUT @ 12:25 P.M.)

13 THE COURT: Anything from the State  
14 before recessing?

15 BRUCE DURANT: We may have something  
16 after lunch, Your Honor. I think in one of the  
17 next few witnesses they may want to introduce  
18 photos of John Williams as opposed to the  
19 Defendant. I would object to that.

20 THE COURT: We'll take that up at  
21 that point.

22 BRUCE DURANT: We also -- and I  
23 don't know if this is an issue, but I'll bring  
24 it to the Court's attention. I think Mr. Britt  
25 and Mr. Williams, who I know both have pending

1 charges, and I don't know if their attorneys  
2 know that they are here and under subpoena. I  
3 know that when they were subpoenaed in the past  
4 for the hearing we had, that I had been  
5 contacted by Ms. Gay, who represented John  
6 Williams, who didn't want her client to  
7 testify. I just didn't know if they had been  
8 notified or not.

9 THE COURT: Have you notified the  
10 attorneys? You need to do that during lunch.

11 MR. BLOOM: We thought we had, but  
12 we'll double check.

13 THE COURT: Please do that just as a  
14 common courtesy. I don't know that you have  
15 to, because they have a right to do that  
16 themselves. But I think it would be the safer  
17 and more prudent practice.

18 BRUCE DURANT: Thank you, Your  
19 Honor.

20 THE COURT: Anything from the  
21 Defendant before we recess?

22 MR. BLOOM: No, sir.

23 THE COURT: Let me just say, Mr.  
24 Bloom, I understand in the federal system  
25 there's rebuttal and sur-rebuttal. I believe

1 we allow direct, cross, redirect and recross,  
2 and that's what I sort of follow. I know that  
3 some judges do it, but I hope I didn't catch  
4 you by surprise in any respect.

5 MR. BLOOM: I understand.

6 THE COURT: If you believe he's  
7 going beyond what you asked in redirect, simply  
8 say "objection, it's beyond the scope of my  
9 redirect." And that's the way I think you  
10 control that.

11 MR. BLOOM: All right.

12 THE COURT: Thank you. But let me  
13 also point out something. I'm not going to do  
14 it, but just be aware of it, because at some  
15 point I am, because this case needs to move on.  
16 You asked this witness three times the same  
17 question at various stages. I understand about  
18 repetition, you want the jury to hear it. But  
19 at some point you can't just keep asking the  
20 same questions over and over again. Thank you.  
21 And the questions were was he adaptable to  
22 prison, which was the essence of his testimony.

23 (LUNCH RECESS)

24 (DEFENDANT PRESENT)

25 THE COURT: Are there any matters



1 now that we need to take up before we bring in  
2 the jury?

3 MR. CARROLL: I believe that there  
4 is, Your Honor. Prior to the break we had a  
5 issue regarding some photographs. We are not  
6 going to attempt to introduce any photographs,  
7 so that's no longer an issue with this witness.

8 THE COURT: All right.

9 MR. CARROLL: However, the witness  
10 we are about to call is currently housed in the  
11 Detention Center and has pending charges. I've  
12 asked the State, based on a review of his  
13 criminal history, what they feel is impeachment  
14 from that record. I understand it to be a  
15 trafficking in cocaine conviction that is  
16 appropriate for impeachment purposes.

17 THE COURT: Okay.

18 MR. CARROLL: Additionally, he is  
19 being held right now awaiting trial on a number  
20 of offenses. Our position would be that while  
21 the State is certainly entitled to make clear  
22 that he is being prosecuted by them, the nature  
23 of those offenses are not relevant and would be  
24 unduly prejudicial and a conflict under 404(b).

25 THE COURT: Okay. What's the

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

3774

1 State's position?

2 BRUCE DURANT: Our position on that,  
3 Your Honor, is primarily under 608©).

4 THE COURT: And I don't have any --  
5 while I agree with you wholeheartedly with the  
6 issue of prosecution, but not delving into the  
7 nature of the crimes. He has pending charges  
8 against him and your office is prosecuting,  
9 obviously. I would agree totally with that  
10 aspect of that, because I think that addresses  
11 that concern.

12 BRUCE DURANT: Thank you, Your  
13 Honor.

14 THE COURT: Thank you, Solicitor.

15 MR. CARROLL: Nothing further.

16 THE COURT: Very good. So we're  
17 ready for our jury to come in?

18 BRUCE DURANT: We are, Your Honor.

19 MR. CARROLL: We are.

20 THE COURT: Let's bring in the jury,  
21 please.

22 (JURY IN @ 2:05 P.M.)

23 THE BAILIFF: Jury is all present,  
24 sir.

25 THE COURT: Thank you, Mr. Robinson

1 (bailiff). Thank you. Be seated, please. I  
2 hope you had a good lunch, Ladies and  
3 Gentlemen. We are ready to continue. It took  
4 a little longer, and I told them they could  
5 take as long as they want. That's their right.  
6 So thank you very much, and I appreciate that.  
7 It's not a problem.  
8 We're ready to continue. You may call your  
9 next witness, Mr. Carroll.

10 MR. CARROLL: Your Honor, the defense  
11 calls Barry Britt.

12 (WITNESS TAKES STAND)

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

16 DIRECT EXAMINATION

17 BY MR. CARROLL:

18 Q. Good afternoon, Mr. Britt. Where are you  
19 currently living?

20 A. Charleston County jail.

21 Q. Were you living in the Charleston County  
22 jail in December of 2008?

23 A. Yes, sir.

24 Q. And in December of 2008, do you recall  
25 being in Unit 1A?

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.

3776

1 A. Yes, sir.

2 Q. I believe you were in Cell 1214?

3 A. Yes, sir.

4 Q. The jury has heard some testimony about an  
5 incident that occurred on December 7th, 2008.

6 You were at that time housed in that unit, that  
7 cell number. Tell us what you heard and what  
8 you saw, just what you yourself heard and saw.

9 A. I heard a commotion outside -- not exactly  
10 outside but, like, like two cells. I was in  
11 the back section and I heard a commotion in the  
12 front section. I came to my door and looked  
13 out and when I looked out I saw Officer  
14 Huggins, Officer Walters and Officer Ashe  
15 kicking by the table. Officer Huggins was  
16 making a kicking motion. Officer Ashe came  
17 over, dropped low to where I couldn't see him,  
18 he went out of my sight. And, uh, -- that's  
19 basically it.

20 Q. Okay. I am going to show you what has  
21 previously been marked as Defendant's Exhibit  
22 16. Take a look at this exhibit, (tendering).

23 A. (Review).

24 Q. Do you recognize this?

25 A. Yeah.

1 Q. Okay. Does this help you explain where  
2 you were and what you were able to see?

3 A. Yeah.

4 MR. CARROLL: Your Honor, I move  
5 Defendant's Exhibit 16 into evidence.

6 THE COURT: Any objection,  
7 Solicitor?

8 BRUCE DURANT: No, sir.

9 THE COURT: Without objection, it is  
10 admitted; diagram on a board.

11 (SO ENTERED AS DEFENDANT'S EXHIBIT 16)

12 DIRECT EXAMINATION CONTINUED

13 BY MR. CARROLL:

14 Q. Mr. Britt, I want you to tell the jury  
15 what -- in fact, if you would, please step  
16 around here.

17 A. (Complies).

18 THE COURT: How about letting him  
19 use that mic. He's soft-spoken.

20 DIRECT EXAMINATION CONTINUED

21 BY MR. CARROLL:

22 Q. Stay right here by the microphone and hold  
23 Defendant's Exhibit 16 up.

24 A. (Complies).

25 Q. I believe -- look at this exhibit and

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

3778

1 describe for the jury the location of your  
2 cell, 1214.

3 A. 1214 is right here (indicating).

4 Q. And I believe that previously we've heard  
5 testimony that Mr. Dickerson ---

6 THE COURT: Position him so that the  
7 jurors can see what he is pointing to, please.  
8 Thank you, sir.

9 DIRECT EXAMINATION CONTINUED

10 BY MR. CARROLL:

11 Q. Show the jury exactly where your cell was?

12 A. Cell 1214, right there.

13 Q. We've heard testimony that these cells  
14 have doors on them.

15 A. (Affirmative nod).

16 Q. How are you able to see?

17 A. The little window right here.

18 Q. Directly across from you, do you know the  
19 inmates that were assigned to Cell 1232?

20 A. No, sir, I didn't exactly know who.

21 Q. You didn't know who was in there at the  
22 time?

23 A. No, sir.

24 Q. Have you since learned that Mr. Dickerson  
25 occupied that cell?

1     A.    1232?

2     Q.    (Affirmative nod).

3     A.    (Negative gesture), he was 1236, I think.

4     Q.    I stand corrected. So he was in 1236.

5     Tell the jury what you heard that drew your

6     attention to go to the window?

7     A.    It was a noise, like something going on

8     out there. I came to the window right here,

9     and I could see right here, through this window

10    was the only view that I could see -- right

11    there.

12    Q.    What did you see taking place right there?

13    A.    The officers -- like I say, Officer

14    Huggins was doing a kicking motion; Officer

15    Ashe run over and dropped low -- when I say

16    "drop low", because this window is -- there's a

17    wall (indicating), and he dropped like under

18    the wall like something was going on. The

19    next thing, I saw them pick up John Williams.

20    Q.    Okay. While you couldn't see who was on

21    the floor when you looked out, you were able to

22    see who it was after they picked him up?

23    A.    Yeah.

24    Q.    What were you able to see about Mr.

25    Williams?

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.

3780

1 A. He was handcuffed, his jacket was pulled  
2 loose, he was swollen, there was a knot on the  
3 side of his head, his eye was closed. He was  
4 just beat up.

5 Q. Okay. Were you able to see or hear  
6 anything else in relation to whatever else was  
7 going on in that cell?

8 A. (Negative gesture), just a lot of yelling.

9 Q. Okay. All right. You can have a seat.

10 A. (Resumes witness stand).

11 Q. You were currently in that detention  
12 center awaiting to go to trial on charges of  
13 your own?

14 A. Yes, sir.

15 Q. You're being prosecuted by the Solicitor's  
16 office here in Charleston County?

17 A. Yes, sir.

18 Q. And you had, before this time, been  
19 convicted of a criminal act, correct?

20 A. Yes, sir.

21 MR. CARROLL: I have nothing further.

22 THE COURT: Cross-examine,  
23 Solicitor?

24 CROSS EXAMINATION

25 BY BRUCE DURANT:



1 Q. You were in 1212?

2 A. 1214.

3 Q. 1214, okay. Mr. Dickerson was in 1236, is  
4 that correct?

5 A. Yes, sir.

6 Q. And you can't really see 1236 from 1214,  
7 can you?

8 A. No.

9 Q. So you can't really tell what happened  
10 over in 1236. You just saw what was going on  
11 with Mr. Williams out here in the common area?

12 A. Yes, sir.

13 BRUCE DURANT: I have nothing  
14 further, Your Honor.

15 THE COURT: Redirect?

16 MR. CARROLL: No redirect.

17 THE COURT: You may come down, Mr.  
18 Britt. Thank you, sir.

19 (WITNESS STEPS DOWN)

20 THE COURT: Call your next witness.

21 MR. BLOOM: For our next witness, we  
22 have to set up some equipment.

23 THE COURT: All right, Ladies and  
24 Gentlemen. We will let you go to your jury  
25 room for just a few moments. They need to set

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

3782

1 up some equipment. Don't discuss the case,  
2 we'll be with you shortly.

3 (JURY OUT @ 2:15 P.M.)

4 THE COURT: We'll be at-ease.

5 (BRIEF RECESS)

6 (DEFENDANT PRESENT)

7 MR. BLOOM: We have a stipulation  
8 that we will read them.

9 THE COURT: Has it been marked as a  
10 defense exhibit?

11 COURT REPORTER: Defendant's Exhibit  
12 17.

13 (SO ENTERED AS DEFENDANT'S EXHIBIT 17)

14 THE COURT: Let's bring in our jury.

15 (JURY IN @ 2:22 P.M.)

16 THE COURT: Thank you very much,  
17 Ladies and Gentlemen. We are ready to  
18 continue. Mr. Bloom, as I understand, before  
19 you call your next witness that there is a  
20 stipulation that you'd like to publish?

21 MR. CARROLL: Yes, Your Honor.

22 THE COURT: Defendant's Exhibit 17.  
23 As you will recall, we had a stipulation in the  
24 earlier proceeding; that is, the parties have  
25 agreed upon the testimony of a witness. You

1 may consider the stipulation when you evaluate  
2 the testimony and all of the evidence. You  
3 consider the stipulation as evidence, for your  
4 consideration.

5 MR. CARROLL: (Reading): "Attorneys  
6 for the Defendant, William O. Dickerson, Jr.  
7 and the State stipulate and agree, as follows:

8 One, that if Lieutenant Michael Tyson  
9 were called to testify that he would stand  
10 under oath the following:

11 Two, that he is an employee and  
12 supervisor of the Charleston County.

13 Three, in response to a subpoena a  
14 request for video from Unit 1A at the detention  
15 center does not exist. On December 7th, 2008,  
16 detention control officers noticed that the 1A  
17 camera was not functioning at approximately  
18 10:02 a.m. They were attempting to  
19 troubleshoot this issue when the incident on  
20 December 7th, 2008, transpired. Central  
21 control was able to restore the video  
22 communication at 11:45 a.m."

23 THE COURT: Thank you, sir.

24 MR. BLOOM: Your Honor, our next  
25 witness is Dr. Alexander Morton.

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.

3784

1 (WITNESS TAKES STAND)

2 ALEXANDER MORTON, being duly sworn to  
3 tell the truth, the whole truth and nothing but  
4 the truth, testified, as follows:

5 DIRECT EXAMINATION

6 BY MR. BLOOM:

7 Q. Dr. Morton, you have brought your laptop  
8 with some presentation on it that pertains to  
9 your testimony today; is that correct?

10 A. Yes, that's correct.

11 Q. Before we do that, let's briefly go  
12 through some of your qualifications. What is  
13 your profession?

14 A. I am a professor at the Medical University  
15 of South Carolina.

16 Q. In what fields are you a professor?

17 A. In psychopharmacology, which essentially  
18 is the study of medicines that affect the human  
19 mind.

20 Q. What is your educational background in  
21 that field?

22 A. I received my B.S. in Pharmacy from the  
23 University of North Carolina in Chapel Hill in  
24 1972; my doctorate of Pharmacy from the  
25 University of Tennessee in 1975; then I

1 completed a residency at the University of  
2 California in San Francisco in 1976.

3 Q. What is your area of speciality, Doctor?

4 A. Psychiatric medicines, medicines that are  
5 prescribed as well as medicines that are  
6 abused.

7 Q. Are you board-certified, sir?

8 A. Yes, I am.

9 Q. In what field?

10 A. In the psychiatric pharmacy practice.

11 Q. All right. Is that board certification is  
12 current?

13 A. Yes, sir. I've certified and been  
14 recertified once.

15 Q. What are your current duties in the  
16 position that you have with the Medical  
17 University?

18 A. Currently I served as a consultant there.  
19 I retired from full-time work approximately  
20 five years ago, worked there full-time for  
21 twenty-eight years. Now I will do, say, three  
22 presentations a years versus forty  
23 presentations when I was full-time.

24 I consult on patients, teach various  
25 classes, as well as conduct shall classes with

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

1 practitioners in various drug areas.

2 Q. At some point in your background, did you  
3 actually work with patients in a clinical  
4 setting?

5 A. Yes, I'd say almost every day in some  
6 capacity that I worked with patients, either  
7 with a team or individually. I did see  
8 patients on my own, on a regular basis, in  
9 clinical studies or as their main practitioner,  
10 if medicine was the main thing that was used to  
11 treat their illness.

12 Q. All right, sir. You've given numerous  
13 lectures, teaching presentations, done clinical  
14 treatment and worked in other areas in the  
15 field of Psychopharmacology, particularly in  
16 the areas of substance abuse?

17 A. Yes, sir, I have.

18 MR. BLOOM: Your Honor, at this time  
19 we would ask that Dr. Morton be qualified as an  
20 expert in the field of Psychopharmacology?

21 THE COURT: Do you care to examine  
22 him as to his qualifications?

23 BRUCE DURANT: No, sir.

24 THE COURT: He will be permitted to  
25 render opinions in that field.

1 MR. BLOOM: Thank you, Your Honor.

2 DIRECT EXAMINATION CONTINUED

3 BY MR. BLOOM:

4 Q. Dr. Morton, if you would come around to  
5 your laptop. I am going to change positions so  
6 that I am not standing in front of the jury. I  
7 will move over here out of the way.

8 Now, if we could go to your first slide  
9 briefly.

10 A. (Display), yes. The first slide is  
11 basically looking at everything that I did at  
12 the Medical University. It's a little washed  
13 out on the screen but there is a green tint to  
14 the top and that is all inpatient activity.  
15 The white at the bottom is more outpatient  
16 activities. So over twenty-eight years -- at  
17 first I spent twenty-five percent of my time at  
18 the VA psychiatric clinic; then below that I  
19 might have spent somewhere between sixty to  
20 seventy-five percent of my time during the same  
21 period of time, working in the outpatient  
22 clinics. So that was primarily outpatient  
23 there.

24 Q. When you say inpatient and outpatient.  
25 Inpatient means people who are being treated?

1 A. People who require inpatient care because  
2 of the severity of their symptoms, generally.

3 Q. And outpatient meaning people who are  
4 coming in for the day?

5 A. Coming in on a weekly basis, a monthly  
6 basis type thing.

7 Q. All right, if you'll go to your next  
8 slide. Again, just briefly, does this show  
9 some of your experience in the field of  
10 treating and working with patients who had  
11 addiction disorders and other mental health  
12 disorders?

13 A. I put that there just to say during a week  
14 what might I do. I would work at the  
15 Charleston County psychiatric unit, usually  
16 looking at people that had a problem, either  
17 withdrawal or side effects. They would choose  
18 a patient for me to see. I would work on the  
19 inpatient MUSC center on what I'd call drug  
20 problems, where I'd make rounds with the  
21 doctors, nurses, psychologists and distribute  
22 (sic) questions and answers regarding drug  
23 therapy

24 I did also work at the McCall Hospital,  
25 which was a residential private alcohol and



1 drug treatment center. I worked there for  
2 approximately thirteen years.

3 I also supervised in our outpatient  
4 pharmacology clinic, which I helped start with  
5 another practitioner, where we'd have somewhere  
6 between ten to fifteen residents. I would  
7 supervise them when they would see patients.

8 Then during that period of time, say in  
9 '92, half of my time was spent in the clinical  
10 research section seeing patients. There, no  
11 one could participate in our study if they had  
12 a disorder because their chemistry is so  
13 different that they are not allowed to  
14 participate in a general discipline.

15 Q. Doctors, let's move back. Let's ask you  
16 generally if you can explain drugs and their  
17 overall affect, in the field of substance  
18 abuse.

19 A. When people take drugs there are, in  
20 general, three different things that I see that  
21 they experience:

22 One is that they usually experience  
23 fairly quick "good" effects, which are  
24 temporary. It might be relieving depression or  
25 relieving anxiety or making them feel good.

1 That lasts only a temporary basis.

2 So one might say, 'well, why would  
3 people continue to take them if they produce  
4 only "bad" effects?' A lot of times people  
5 will not notice some of the severe psychiatric  
6 symptoms that occur and it's hard to see that  
7 sometimes you can see some of the toxic effects  
8 in people who take them over a period of time.

9 Q. What are some of the effects on the brain?

10 A. Some of the effects on the brain, uh,  
11 there are very few drugs that just act  
12 selectively. A lot of times drugs will affect  
13 people's judgment, it will affect people's  
14 movement, it will affect how they perceive the  
15 world and move around. It can affect vision  
16 centers.

17 This (displaying image) is a cross-  
18 section if you were looking at my brain. I'm  
19 looking forward. These would be different  
20 parts of the brain that would be affected.

21 The "reward center" is one center that  
22 is very important and I was going to talk about  
23 that a little bit later, because it helps me  
24 understand why people continue to do what they  
25 do despite horrible problems.

1 Q. All right, sir. At some point in time did  
2 I ask you to review records and other material  
3 regarding William Dickerson, Jr.?

4 A. Yes.

5 Q. What did you find regarding William's  
6 substance abuse?

7 A. That William's substance abuse started  
8 fairly early, started as early as thirteen  
9 where he was -- change slides.

10 Alcohol was his first drug-of-choice,  
11 starting at age thirteen and he started using  
12 it pretty much on a regular basis by age  
13 fourteen, drinking somewhere between three to  
14 four quarts at a time. When he would party on  
15 the weekends, he might drink as much as seven  
16 quarts.

17 Later on he started smoking marijuana,  
18 which became something on a daily basis and  
19 regularly used it, just about every day.

20 Cocaine was a fairly early experience  
21 where he used it intra-nasally. At fourteen,  
22 he was selling cocaine at that time -- which  
23 was not really unusual in his environment for  
24 young boys to either move or sell or carry  
25 cocaine. He had a period of time where he used

1 it regularly and then quit, mainly because of  
2 cost, but then started back at around age  
3 eighteen.

4 Heroin, he did -- in the history that was  
5 obtained, he did snort it one time and that was  
6 it. It apparently did not catch his brain's  
7 attention that limited time that he used it.

8 He did use the drug Ecstasy, also known as  
9 dioxymethamphetamine or MDMA, which is  
10 sometimes called a "club drug". It produces a  
11 physical affect on the body as well as euphoria  
12 and a "feel good" effect throughout the body,  
13 lasting twelve hours. That is another drug  
14 that he started using later on as a young  
15 adult.

16 Then later on during the crime he was  
17 using those substances.

18 Q. Were you able from the documents and  
19 materials used to prepare a timeline of his  
20 substance use, substance abuse from  
21 approximately February through March of 2006?

22 A. Yes, I put together a timeline based on  
23 reports, based on documents that were available  
24 from the Solicitor's office, from other people  
25 that knew him and had observed him. This would

1 be a period of time -- and what it -- it starts  
2 off with February 1st and then it quickly goes  
3 to the 25th and then -- then it is every day  
4 after that.

5 The incident was at some time during March  
6 the 7th through the 8th, and both before,  
7 during and after there was observation of him  
8 using substances.

9 Starting off with a friend, she reports  
10 that he was smoking Blunt cigarettes, which are  
11 marijuana cigarettes with cocaine in them,  
12 essentially smoking it in a crack form and was  
13 also using Ecstasy/MDMA before that evening of  
14 the 6th, before the 7th.

15 Two friends, both Antonio Nelson and Devon  
16 Keeling, in the solicitor interviews reported  
17 that he was using/smoking cocaine in the Blunt  
18 form, along with marijuana.

19 A friend, Rashid Malik, reported that he  
20 also was using cocaine and marijuana.

21 His brother, Armon Dickerson, in an  
22 interview as well as -- two interviews --  
23 talked about him using this Blunt cigarettes,  
24 cocaine and marijuana.

25 Q. I take it that that can't be good for you,

1 good for a person's ---

2 A. No, that's not good at all. No.

3 Q. All right. From that, what other  
4 information did you glean from the records  
5 about his substance abuse during this time  
6 period?

7 A. That overall Mr. Dickerson had a  
8 tremendous change in behavior. The one word  
9 that would probably describe it best would be  
10 "bizarre" behavior.

11 I've taken the same timeline and looked at  
12 what has been reported by the same people that  
13 saw him using the drugs. Starting off with  
14 Tony Nelson, he describes Mr. Dickerson as  
15 "loud and argumentative", "amped up", which  
16 generally means just turned up really high,  
17 "acting weird", saying "he just flipped out,  
18 said guys were out to get him", a very paranoid  
19 state. "He seemed to be out of his mind, he  
20 started flipping" -- sometimes people use the  
21 term "flipping" for flipping to a different  
22 behavior, unusual behavior. Again, he was out  
23 of his mind, he was flipping. He thought  
24 everyone was out to get him, he just flipped  
25 out.

1 Devon Keeling, around the same time  
2 described him as "pacing, seemed to be very  
3 upset, Willie D was yelling."

4 Rashid Malik, later on, said that he was  
5 "totally someone else." Rashid has apparently  
6 known him since childhood and said that "he  
7 wasn't himself, his mind wasn't right, he  
8 wasn't the guy that I knew." He reported about  
9 conversations that just repeatedly did not make  
10 sense to -- to Rashid.

11 Q. When William was initially arrested, the  
12 police report contained information that you  
13 relied on and felt significant?

14 A. Yes. He was arrested and the police  
15 report described that he was hyperactive, that  
16 he kept rambling about the drug world, that he  
17 rambled about a conspiracy to kill him. He was  
18 convoluted, meaning kind of going all over the  
19 place, as well as scattered and that he  
20 couldn't really provide details of his travels.  
21 When asked where he had been, he couldn't  
22 specifically say how he got from one spot to  
23 another. He did say that he may have to  
24 "return to his jail cell to clear his head."  
25 That is what Willie D said at that time.

1 Q. All right, sir. Next, what other reports  
2 did you find significant?

3 A. There were two interviews with cousins on  
4 the 5th. Christopher Watson, who knows him  
5 quite well, described him as being "very hyper,  
6 talking very fast, pounding his fist into his  
7 own hand" like so (demonstrating). He said  
8 that Willie had lost weight, was unshaven and  
9 that his hair was not neat and this was  
10 different from the way that he normally was,  
11 that his behavior was erratic and different.  
12 He told her that some fellows were after him  
13 and were trying to kill him.

14 Another cousin, later on in the day,  
15 described him as "hyper, jittery, people were  
16 looking for him, he was pacing back and forth,  
17 he would sit down but then jump up" and that he  
18 kept peeping out the window, that he did that  
19 several times.

20 One thing that I will always ask people  
21 who have used cocaine is, "Were you peeping out  
22 the window?" They are like, "How did you  
23 know?" Well, I only know because the majority  
24 of people do peek out the window to see who is  
25 out there because they are so paranoid. So



1     that's kind of a typical response, that you're  
2     looking out the window thinking that somebody  
3     is driving by, looking for you. She described  
4     that. That he was acting "very strange", that  
5     he was hallucinating, "see that, see that" and  
6     that there was nothing on the screen.

7             In fact, when I looked at overall the  
8     people that was shown his cell phone he'd shown  
9     it to seven different people and no one was  
10    able to see what he was able to see. Sometimes  
11    it was blank, sometimes there was something on  
12    it but no one could really make out what Mr.  
13    Dickerson was seeing. So I don't know if he  
14    was hallucinating or if he was just seeing what  
15    he wanted to see at that time. She described  
16    that.

17            Then all of a sudden he jumped out of a  
18    car and ran off without saying a word, which  
19    was different than his normal behavior with his  
20    cousin.

21    Q.    Were there other symptoms that you were  
22    able to find?

23    A.    When we interviewed other people in his  
24    family, his aunt noticed that he was constantly  
25    moving, that he didn't sit down, that he

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.

3798

1 appeared jittery, again stating that he wasn't  
2 himself. Almost everyone had noticed that he  
3 had started to lose weight, which is a symptom  
4 that is quite consistent with stimulant use,  
5 whether it be cocaine or methamphetamine, you  
6 use appetite and you lose a tremendous amount  
7 of weight.

8 "Starting to look bad", his friend  
9 Dontaire Anderson said that he was starting to  
10 say things that "they were trying to kill him"  
11 and that he was "scared to death" of "other  
12 people."

13 Q. And in your -- any other information that  
14 you found of significant in Mr. Dickerson's  
15 behavior in the materials that you ---

16 A. Other members of his family, his  
17 grandmother, Ms. Watson, described him as  
18 "talking fast, looking bad". She noticed that  
19 he was different because generally he'd be very  
20 clean-cut and then suddenly he started paying  
21 less attention to his dressing habits?

22 A former girlfriend, Karen McIntosh, said  
23 that he had really lost a lot of weight and  
24 that he looked pretty stressed out.

25 His aunt described him in general as

1     mental and physical deterioration.

2             His mother, Sandra Fokes, said that he had  
3     lost so much weight that she knew something  
4     must have been wrong.

5     Q.   And some of these symptoms were going on  
6     in the week before the ---

7     A.   (Affirmative nod), they were going on  
8     several weeks beforehand.

9     Q.   Is there any significance to that?

10    A.   It is significant in that these symptoms  
11    are consistent with excessive cocaine  
12    consumption, it's evidence of deterioration  
13    that you see in people's physical and mental  
14    state when they use these drugs, this drug.

15    Q.   When you put all the information together,  
16    as you have been doing, what do you find ---

17    A.   Well, it really is overwhelming. I  
18    started to use this but it's just too much  
19    information when we put every one together, but  
20    I thought that I would keep it.

21            A lot of observations from everyone that  
22    he is having some problems. The next slide  
23    helps to look at it a little bit better in that  
24    people noticed a change in behavior -- whoever  
25    came across him noticed that, they noticed --

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.

3800

1 people that knew him noticed weight loss, they  
2 noticed paranoia thinking, either that people  
3 were out to get him or were spying on him or  
4 were looking for him.

5 The stimulant properties of cocaine make  
6 someone very hyperactive and restless. It's  
7 very difficult for someone to sit down and it's  
8 pretty noticeable.

9 He had symptoms that were consistent with  
10 a psychotic state, seeing things that other  
11 people could not see. He didn't mention any  
12 auditory hallucinations, mainly visual  
13 hallucinations. He appeared to a number of  
14 people to be very disorganized and certainly  
15 had a tremendous amount of aggressive and  
16 violent behavior that was over, that was over  
17 the -- just very aggressive.

18 Q. Doctor, what is one of the initial things  
19 that cocaine does over a period of time?

20 A. It really catches the brain's attention.  
21 I would say that because it stimulates the  
22 brain that it really "tricks" the brain into  
23 thinking a survival need is being met. That's  
24 where -- and I'll show you more regarding the  
25 reward system. So it's not the thinking part

1 of the brain, it is the survival part of the  
2 brain that is saying 'I need to get cocaine.'  
3 That is why you can see people behave in ways  
4 that don't make sense to use, or anyone, and  
5 the lengths that people will go to get cocaine  
6 when they develop this addiction.

7 Q. Why do most people use cocaine?

8 A. Well, there are a number of uses (sic) why  
9 people start off using, almost always  
10 voluntary. If I were giving a lecture to a  
11 class, I'd have sixteen specific reasons why  
12 people give -- why they initially use a drug.  
13 Sometimes it's because you're not supposed to.  
14 Sometimes it's a rebellion?  
15 Sometimes it's just to see what it's like.  
16 Sometimes it's to feel different, feel better.

17 In my experience of the people that I come  
18 in contact with, in the hospitals or the  
19 clinics, later on they're using drugs often to  
20 self-medicate themselves; either something that  
21 is feeling bad inside them, and these drugs  
22 relieve those symptoms fairly quickly, and then  
23 -- also whatever you use, when you quit using,  
24 you can predictably experience some withdrawal.  
25 The withdrawal may not be horrible but you will

1 feel uncomfortable the next day.

2 Q. Can you explain to me what you mean by  
3 self-medicate?

4 A. Self-medicate would be if you had  
5 depression. If you took cocaine, probably  
6 within seconds that depression would be gone.  
7 Whereas if I prescribed Lexapro to someone, I  
8 could kind of predict that is six weeks that  
9 depression would be less; very slow and  
10 gradual, whereas cocaine is pretty much  
11 instantaneous.

12 Alcohol, fifteen minutes. So if you're  
13 feeling bad, you drink alcohol, it works pretty  
14 quickly, fifteen minutes.

15 Nothing really works any faster than  
16 cocaine, if you smoke it.

17 Q. All right, sir. Can you explain what you  
18 mean by addictive brain disease?

19 A. An addictive brain disease, I'm talking  
20 about where people are really using it in an  
21 involuntary fashion. Almost everyone starts  
22 off using the drug voluntarily but we're  
23 talking about something that people have lost  
24 control of their drug use, and that's the core  
25 issue between people with addictions and people

1     that don't have addiction is that people with  
2     addiction do not have the ability to stop use  
3     regardless of the consequences.

4             I think in terms -- this is not overly  
5     scientific, but it helps me to understand what  
6     happens to a segment of population that go on  
7     to develop this illness, that they compulsively  
8     use and almost get off on a different track.  
9     It's like a switch occurs in the brain, almost  
10    like a light switch or a switch on the track.  
11    Once they are on this track, they will always  
12    be on that track. They might be on that track  
13    and not use, they might be on that track and  
14    use compulsively. Once you've got addiction, I  
15    find that you've always got addiction.

16    Q.   All right. What are some of the things  
17    that contribute to a person developing an  
18    addiction to cocaine?

19    A.   Again, a chronic relapsing brain disease  
20    which is pretty much well described in  
21    excessive -- that it is a brain disease.

22             It's more predictable in some of the other  
23    chronic medical disorders we have. If you  
24    compare it to high blood pressure or diabetes,  
25    some of the characteristics are that we all

1 know that there are some genetic factors. It  
2 doesn't explain everything but there are some  
3 there.

4 We know where it affects the body. We  
5 know that there are a number of different  
6 factors that play into people developing these  
7 disorders. That is a very predictable course.  
8 People relapse. You relapse whether you're  
9 using cocaine or alcohol or if you have high  
10 blood pressure or if you have diabetes, people  
11 have symptoms.

12 Noncompliance is -- noncompliant meaning  
13 not following recommendations or not following,  
14 not taking medicine or following a diet; which  
15 is pretty common with most medical disorders.

16 People do have a positive response. I  
17 personally find that I like working with people  
18 with addictions because they get well, a lot of  
19 times moreso than people with blood pressure or  
20 diabetes, which pretty much stays stable.

21 People with addiction, if they follow  
22 treatment, not that it is easy, but they get  
23 better predictably. If they don't follow  
24 treatment, they predictably get sicker; which  
25 is also reassuring to me, because I know what



1 is coming next. A very predictable disease.

2 Q. Why can't a person just stop an addiction,  
3 just stop using?

4 A. It looks like that should be something  
5 that would happen but biologically, chemically  
6 in their brain they are missing the chemicals  
7 that send the message to say subconsciously,  
8 unconsciously, 'you do not need to use anymore,  
9 stop drinking.' Their brain is different than  
10 non-addicted people's brain.

11 Q. Next slide, does that show that?

12 A. I think so, just the fact that this is a  
13 biological inability to stop people when they  
14 use. It seems like they should considering the  
15 horrific things that go on in people's lives:  
16 losing their spouse, losing their job, losing  
17 money, they're losing everything in their life.  
18 They're asked to stop, yet they can't.

19 Q. Does the chemistry of a person's brain  
20 have anything to do with addiction?

21 A. It has a lot to do with it. There are  
22 other factors but that has a lot to do with it.  
23 Everyone is different.

24 There have been a tremendous numbers of  
25 discoveries over the last twenty to thirty

1 years that help us understand addiction. I  
2 think you can see the difference in people's  
3 scans, brain images, of their brain; the  
4 deficit and hyperactivity areas of the brain of  
5 someone who has an addiction versus people that  
6 do not have an addiction.

7 This is something hard, I think, for a lot  
8 of people to accept because it still seems like  
9 one should just stop. A lot of times people  
10 think in terms of 'Well, I can stop, why can't  
11 they stop? All they have to do is stop.'

12 It is not unlike thinking that -- years  
13 ago, when we thought that the world was flat?  
14 We have a tremendous number of advances now.  
15 We've got ideas that do not change. If you  
16 went back thirty to forty years, the idea of  
17 putting a man on the moon sounded ludicrous.  
18 But things change. It's hard for people to  
19 accept, it's hard to accept that addiction is a  
20 medical disease.

21 Q. Before we get to your findings about  
22 addiction and William in particular, are there  
23 any other main points that you would like to  
24 make about addiction and how medical research  
25 and science has advanced the understanding of

1 that?

2 A. I think looking at the reward system is  
3 important. It personally took me about four  
4 years to understand and believe that this was  
5 an illness, compared to back in the seventies  
6 maybe. Personally, it took me awhile to  
7 believe it. It's always interesting that I'm  
8 going to get before a class, a group of  
9 professionals or a jury in fifteen or thirty  
10 minutes and change their minds -- but, it's  
11 something to consider.

12 Q. How does addiction work on the brain?

13 A. Addiction on the brain works on the reward  
14 system. It is so powerful that people -- we  
15 are looking at potentially developing a vaccine  
16 for people, a cocaine vaccine. It might be  
17 that before you go to school you have to have a  
18 cocaine vaccine. That means, if you use it you  
19 won't get high. If you don't get high, you are  
20 not going to use it. You're not going to use  
21 it if you don't get an effect. That's where we  
22 are kind of moving.

23 Addiction and the brain, it is important  
24 to understand that it is not logical and that  
25 the -- that the reason for it not being logical

1 is that it affects parts of the brain where we  
2 make sense of the world and make decisions.

3 Q. And, generally, just to sum up, what are  
4 some of the various things that cause  
5 addiction? Then we're going to move to your  
6 findings about William in particular.

7 A. No one knows absolutely what causes  
8 addiction and what causes some of these  
9 biochemical changes. It's obviously a number  
10 of factors. The biggest factor that is  
11 consistent is genetically, who is in your  
12 family that also has this illness? If you're a  
13 male and your father is a male (sic), it  
14 predictably pushes you into about a fifty to  
15 fifty-five percent chance of you not being able  
16 to control a substance; but that's not a  
17 hundred percent, not a hundred percent.  
18 Genetics are a big factor in passing on that  
19 genetic, I would say, vulnerability.

20 There are other things in the environment,  
21 nurturing and nature that have -- that are a  
22 factor. What goes on in the first six years of  
23 life, both prenatal, at birth, as well as in  
24 the first six years; where you live,  
25 environmentally; stressors. Two different

# VOLUME NINE OF TEN

STATE OF SOUTH CAROLINA  
In The Supreme Court

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

THE STATE,

RESPONDENT,

V.

WILLIAM O. DICKERSON,

APPELLANT

## RECORD ON APPEAL

ROBERT M. DUDEK  
Chief Appellate Defender

Kathrine H. Hudgins  
Appellate Defender

South Carolina Commission on Indigent Defense  
Division of Appellate Defense  
PO Box 11589  
Columbia, SC 29211-1589  
(803) 734-1330

JEFFREY P. BLOOM  
Pro-Bono  
1911 Pickens Street  
Columbia, SC 29201  
(803) 256-7001

Attorneys for Appellant

**VOLUME NINE**  
**Pages 4001-4500**

ALAN WILSON  
Attorney General

JOHN W. MCINTOSH  
Chief Deputy Attorney General

DONALD J. ZELENKA  
Assistant Deputy Attorney General

MELODY J. BROWN  
Senior Assistant Attorney General  
Office of the Attorney General  
PO Box 11549  
Columbia, SC 29211  
(803) 734-6305

SCARLETT ANNE WILSON  
Solicitor, Ninth Judicial Circuit  
101 Meeting St., Ste. 400  
Charleston, SC 29401-2214  
fax (843) 740-5858  
(843) 958-1900

Attorneys for Respondent

## INDEX

|             |   |
|-------------|---|
| INDEX ..... | i |
|-------------|---|

## VOLUME I

|                                 |   |
|---------------------------------|---|
| TRANSCRIPT, APRIL 3, 2009 ..... | 1 |
|---------------------------------|---|

|               |   |
|---------------|---|
| MOTIONS ..... | 2 |
|---------------|---|

## TESTIMONY

## JERARD ANTONIO SMITH

|                                       |    |
|---------------------------------------|----|
| Direct Examination by Mr. Bloom ..... | 28 |
|---------------------------------------|----|

|                                       |    |
|---------------------------------------|----|
| Cross Examination by Mr. Durant ..... | 41 |
|---------------------------------------|----|

## VANTE BIRCH

|                                       |    |
|---------------------------------------|----|
| Direct Examination by Mr. Bloom ..... | 44 |
|---------------------------------------|----|

|                                       |    |
|---------------------------------------|----|
| Cross Examination by Mr. Durant ..... | 68 |
|---------------------------------------|----|

|               |    |
|---------------|----|
| MOTIONS ..... | 72 |
|---------------|----|

## JOHNETTE WATSON

|                                       |    |
|---------------------------------------|----|
| Direct Examination by Mr. Bloom ..... | 98 |
|---------------------------------------|----|

|                                       |     |
|---------------------------------------|-----|
| Cross Examination by Ms. Wilson ..... | 110 |
|---------------------------------------|-----|

|                                         |     |
|-----------------------------------------|-----|
| Redirect Examination by Mr. Bloom ..... | 123 |
|-----------------------------------------|-----|

|               |     |
|---------------|-----|
| MOTIONS ..... | 124 |
|---------------|-----|

## FRIDAY, APRIL 17, 2009

|                             |     |
|-----------------------------|-----|
| COURT REPORTERS INDEX ..... | 194 |
|-----------------------------|-----|

|                                    |     |
|------------------------------------|-----|
| STATUTORY JURY QUALIFICATION ..... | 224 |
|------------------------------------|-----|

## JUROR #27

|                                |     |
|--------------------------------|-----|
| Examination by the Court ..... | 236 |
|--------------------------------|-----|

## JUROR # 95

|                                |     |
|--------------------------------|-----|
| Examination by the Court ..... | 237 |
|--------------------------------|-----|

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

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



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

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

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

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

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

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

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

|                               |     |
|-------------------------------|-----|
| JUROR #146                    |     |
| Examination by the Court..... | 407 |
| JUROR #22                     |     |
| Examination by the Court..... | 407 |
| JUROR #220                    |     |
| Examination by the Court..... | 408 |
| COLLOQUY .....                | 409 |

**MONDAY, APRIL 20, 2009**

**JURY VOIR DIRE**

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

**VOLUME TWO**

|                                    |     |
|------------------------------------|-----|
| JUROR #377                         |     |
| Examination by the Court.....      | 507 |
| Examination by Ms. Wilson.....     | 509 |
| Examination by Mr. Bloom.....      | 510 |
| JUROR #278                         |     |
| Examination by the Court.....      | 514 |
| Examination by Mr. Bloom.....      | 516 |
| JUROR #386                         |     |
| Examination by the Court.....      | 522 |
| Examination by Ms. Wilson.....     | 531 |
| Examination by Mr. Bloom.....      | 534 |
| JUROR #228                         |     |
| Examination by the Court.....      | 551 |
| Examination by Mr. Bloom.....      | 562 |
| Examination by the Ms. Wilson..... | 574 |
| JUROR #133                         |     |
| Examination by the Court.....      | 582 |
| Examination by Ms. Wilson.....     | 592 |



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

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

## TUESDAY, APRIL 21, 2009

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

## VOLUME THREE

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

|                                |      |
|--------------------------------|------|
| JUROR #378                     |      |
| Examination by the Court.....  | 1016 |
| Examination by Ms. Wilson..... | 1029 |
| Examination by Mr. Bloom.....  | 1034 |
| MOTIONS .....                  | 1050 |
| JUROR #315                     |      |
| Examination by the Court.....  | 1056 |
| Examination by Mr. Bloom.....  | 1058 |
| Examination by Ms. Wilson..... | 1066 |
| Examination by the Court.....  | 1070 |
| Examination by Ms. Wilson..... | 1076 |
| JUROR #306                     |      |
| Examination by the Court.....  | 1093 |
| Examination by Mr. Durant..... | 1106 |
| Examination by Mr. Bloom.....  | 1110 |
| JUROR #398                     |      |
| Examination by the Court.....  | 1119 |
| Examination by Mr. Bloom.....  | 1123 |
| Examination by Mr. Durant..... | 1126 |
| JUROR #124                     |      |
| Examination by the Court.....  | 1136 |
| Examination by Mr. Bloom.....  | 1152 |
| JUROR #330                     |      |
| Examination by the Court.....  | 1163 |
| Examination by Mr. Bloom.....  | 1178 |
| JUROR #121                     |      |
| Examination by the Court.....  | 1188 |
| JUROR #209                     |      |
| Examination by the Court.....  | 1192 |
| Examination by Ms. Wilson..... | 1205 |
| Examination by Mr. Bloom.....  | 1210 |
| JUROR #54                      |      |
| Examination by the Court.....  | 1224 |
| Examination by Mr. Bloom.....  | 1226 |
| JUROR #343                     |      |
| Examination by the Court.....  | 1238 |
| Examination by Ms. Wilson..... | 1253 |
| Examination by Mr. Bloom.....  | 1256 |

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

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

## VOLUME FOUR

|                                |      |
|--------------------------------|------|
| JUROR #364                     |      |
| Examination by the Court.....  | 1506 |
| Examination by Ms. Wilson..... | 1506 |

## WEDNESDAY, APRIL 22, 2009

|                                |      |
|--------------------------------|------|
| JUROR #234                     |      |
| Examination by the Court.....  | 1523 |
| Examination by Ms. Wilson..... | 1545 |
| Examination by Mr. Bloom.....  | 1549 |

|                                |      |
|--------------------------------|------|
| JUROR #8                       |      |
| Examination by the Court.....  | 1557 |
| Examination by Mr. Bloom.....  | 1572 |
| Examination by Mr. Durant..... | 1578 |

|                                |      |
|--------------------------------|------|
| JUROR #50                      |      |
| Examination by the Court.....  | 1583 |
| Examination by Mr. Durant..... | 1589 |
| Examination by Mr. Bloom.....  | 1591 |

|                               |      |
|-------------------------------|------|
| JUROR #262                    |      |
| Examination by the Court..... | 1595 |

|                                |      |
|--------------------------------|------|
| JUROR #4                       |      |
| Examination by the Court.....  | 1599 |
| Examination by Mr. Bloom.....  | 1615 |
| Examination by Mr. Durant..... | 1521 |

|                                |      |
|--------------------------------|------|
| JUROR #72                      |      |
| Examination by the Court.....  | 1626 |
| Examination by Mr. Durant..... | 1645 |
| Examination by Mr. Bloom.....  | 1648 |

|                                |      |
|--------------------------------|------|
| JUROR #246                     |      |
| Examination by the Court.....  | 1667 |
| Examination by Mr. Durant..... | 1684 |
| Examination by Mr. Bloom.....  | 1686 |

|                                |      |
|--------------------------------|------|
| JUROR #331                     |      |
| Examination by the Court.....  | 1695 |
| Examination by Mr. Bloom.....  | 1709 |
| Examination by Mr. Durant..... | 1714 |

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

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

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

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

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

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

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

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

#### THURSDAY, APRIL 23, 2009

|                |      |
|----------------|------|
| COLLOQUY ..... | 1992 |
|----------------|------|

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

#### VOLUME FIVE

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

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

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

|                |      |
|----------------|------|
| COLLOQUY ..... | 2008 |
|----------------|------|

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

#### TESTIMONY

##### KANESHIA SINGLETON

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

##### SHAREEN ROPER

|                                       |      |
|---------------------------------------|------|
| Direct Examination by Ms. Wilson..... | 2117 |
|---------------------------------------|------|

##### STEVO RIVERS

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

##### BENJAMIN DRAYTON

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

##### ANTONIO NELSON

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

##### DEVON KEELING

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

#### FRIDAY, APRIL 24, 2009

|                |      |
|----------------|------|
| COLLOQUY ..... | 2309 |
|----------------|------|

#### TESTIMONY

##### TOMISHA "SHELLEY" NELSON

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



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

## VOLUME SIX

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

## MONDAY, APRIL 27, 2009

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

|                                               |      |
|-----------------------------------------------|------|
| Cross Examination by Mr. Bloom.....           | 2738 |
| JUDITCH GORDON                                |      |
| Direct Examination by Mr. Durant.....         | 2742 |
| MICHAEL R. SHERMAN                            |      |
| Direct Examination by Mr. Durant.....         | 2752 |
| Cross Examination by Mr. Hood.....            | 2765 |
| Redirect Examination by Mr. Durant.....       | 2768 |
| TUESDAY, APRIL 28, 2009                       |      |
| COLLOQUY .....                                | 2771 |
| JUROR #234                                    |      |
| Examination by the Court.....                 | 2772 |
| JENNIFER WOOLEY                               |      |
| Direct Examination by Mr. Durant.....         | 2778 |
| Cross Examination by Mr. Bloom.....           | 2784 |
| ANITA MAESTAS                                 |      |
| Direct Examination by Mr. Durant.....         | 2787 |
| Cross Examination by Mr. Bloom.....           | 2794 |
| RENEE CHARLES                                 |      |
| Direct Examination by Mr. Durant.....         | 2796 |
| RANDY UNTERBRINK                              |      |
| Direct Examination by Mr. Durant.....         | 2799 |
| KINNEY KINSEY                                 |      |
| Direct Examination by Mr. Durant.....         | 2801 |
| Cross Examination by Mr. Bloom.....           | 2832 |
| LILLY SMALL GALLMAN                           |      |
| Direct Examination by Mr. Durant.....         | 2852 |
| Cross Examination by Mr. Bloom.....           | 2890 |
| Redirect Examination by Mr. Durant.....       | 2916 |
| Recross Examination by Mr. Bloom.....         | 2918 |
| CYNTHIA SCHANDL                               |      |
| Direct Examination by Ms. Wilson.....         | 2920 |
| Cross Examination by Mr. Bloom.....           | 2979 |
| Proffer Examination by Mr. Bloom .....        | 2985 |
| Proffer Cross Examination by Ms. Wilson ..... | 2987 |

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

## VOLUME SEVEN

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

## WEDNESDAY, APRIL 29, 2009

|               |      |
|---------------|------|
| MOTIONS ..... | 3060 |
|---------------|------|

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

|                |      |
|----------------|------|
| COLLOQUY ..... | 3126 |
|----------------|------|

|                        |      |
|------------------------|------|
| <i>IN CAMERA</i> ..... | 3127 |
|------------------------|------|

|               |      |
|---------------|------|
| JURY IN ..... | 3144 |
|---------------|------|

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

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

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

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

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

|               |      |
|---------------|------|
| MOTIONS ..... | 3358 |
|---------------|------|

|                                |      |
|--------------------------------|------|
| EXAMINATION OF DEFENDANT ..... | 3361 |
|--------------------------------|------|

**THURSDAY, APRIL 30, 2009**

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

**VOLUME EIGHT**

|               |      |
|---------------|------|
| VERDICT ..... | 3524 |
| MOTIONS ..... | 3532 |

**FRIDAY, MAY 1, 2009**

|                              |      |
|------------------------------|------|
| IN CHAMBERS CONFERENCE ..... | 3548 |
|------------------------------|------|

**TESTIMONY**

**LEESTER WILLIAMS (*IN CAMERA*)**

|                                        |      |
|----------------------------------------|------|
| Direct Examination by Mr. Durant.....  | 3553 |
| Cross Examination by Mr. Carroll ..... | 3566 |

**MICHAEL HUGGINS (*IN CAMERA*)**

|                                        |      |
|----------------------------------------|------|
| Direct Examination by Mr. Durant.....  | 3583 |
| Cross Examination by Mr. Carroll ..... | 3586 |

|                                    |      |
|------------------------------------|------|
| MOTIONS ( <i>IN CAMERA</i> ) ..... | 3590 |
|------------------------------------|------|

**MONDAY, MAY 4, 2009**

|               |      |
|---------------|------|
| JURY IN ..... | 3613 |
|---------------|------|

|                                       |      |
|---------------------------------------|------|
| OPENING STATEMENT BY MR. DURANT ..... | 3613 |
|---------------------------------------|------|

|                                     |      |
|-------------------------------------|------|
| OPENING STATEMENT BY MR. BLOOM..... | 3618 |
|-------------------------------------|------|

**TESTIMONY**

**EDWARD HASELDEN, JR.**

|                                        |      |
|----------------------------------------|------|
| Direct Examination by Mr. Durant.....  | 3627 |
| Cross Examination by Mr. Carroll ..... | 3631 |

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

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

|                                         |      |
|-----------------------------------------|------|
| WILLIAM DICKERSON ( <i>IN CAMERA</i> )  |      |
| Examination by the Court.....           | 3902 |
| JURY IN .....                           | 3907 |
| JOSPEH LADSON                           |      |
| Direct Examination by Mr. Bloom.....    | 3908 |
| Cross Examination by Mr. Durant .....   | 3911 |
| JOHN HEWITT                             |      |
| Direct Examination by Mr. Bloom.....    | 3913 |
| Cross Examination by Ms. Wilson.....    | 3915 |
| STACY SIMMONS                           |      |
| Direct Examination by Mr. Bloom.....    | 3916 |
| Cross Examination by Ms. Wilson.....    | 3917 |
| CURTIS HOOD                             |      |
| Direct Examination by Mr. Bloom.....    | 3918 |
| Cross Examination by Mr. Durant .....   | 3920 |
| DAVID GADEIC                            |      |
| Direct Examination by Mr. Bloom.....    | 3921 |
| Cross Examination by Mr. Durant .....   | 3923 |
| JAMES AIKEN                             |      |
| Direct Examination by Mr. Bloom.....    | 3925 |
| Cross Examination by Mr. Durant .....   | 3948 |
| Redirect Examination by Mr. Bloom ..... | 3955 |
| Recross Examination by Mr. Durant.....  | 3958 |
| BARRY BRITT                             |      |
| Direct Examination by Mr. Carroll ..... | 3967 |
| Cross Examination by Mr. Durant .....   | 3972 |
| ALEXANDER MORTON                        |      |
| Direct Examination by Mr. Bloom.....    | 3976 |

## VOLUME NINE

|                                        |      |
|----------------------------------------|------|
| ALEXANDER MORTON                       |      |
| Cross Examination by Mr. Durant .....  | 4016 |
| Redirect Examination by Mr. Bloom..... | 4025 |
| JOHNETTE R. WATSON                     |      |
| Direct Examination by Mr. Bloom.....   | 4027 |
| Cross Examination by Ms. Wilson.....   | 4035 |

|                                      |      |
|--------------------------------------|------|
| TIERRA MCINTOSH                      |      |
| Direct Examination by Mr. Bloom..... | 4036 |

|                                         |      |
|-----------------------------------------|------|
| JOHNNIE K. RIVERS                       |      |
| Direct Examination by Mr. Bloom.....    | 4043 |
| Cross Examination by Mr. Durant .....   | 4060 |
| Redirect Examination by Mr. Bloom ..... | 4071 |
| Recross Examination by Mr. Durant.....  | 4075 |

### WEDNESDAY, MAY 6, 2009

|               |      |
|---------------|------|
| MOTIONS ..... | 4078 |
|---------------|------|

|                                         |      |
|-----------------------------------------|------|
| MARY E. RANKIN                          |      |
| Direct Examination by Mr. Bloom.....    | 4089 |
| Cross Examination by Mr. Durant .....   | 4097 |
| Redirect Examination by Mr. Bloom ..... | 4100 |

|                                         |      |
|-----------------------------------------|------|
| MARJORIE HAMMOCK                        |      |
| Direct Examination by Mr. Bloom.....    | 4101 |
| Cross Examination by Mr. Durant .....   | 4157 |
| Redirect Examination by Mr. Bloom ..... | 4172 |

|                                         |      |
|-----------------------------------------|------|
| DORIS GAMBLE                            |      |
| Direct Examination by Mr. Bloom.....    | 4177 |
| Cross Examination by Ms. Wilson.....    | 4180 |
| Redirect Examination by Mr. Bloom ..... | 4181 |

|                                      |      |
|--------------------------------------|------|
| JIMMY MITCHELL                       |      |
| Direct Examination by Mr. Bloom..... | 4182 |

|                                         |      |
|-----------------------------------------|------|
| JAMES DUNN                              |      |
| Direct Examination by Mr. Bloom.....    | 4185 |
| Cross Examination by Ms. Wilson.....    | 4193 |
| Redirect Examination by Mr. Bloom ..... | 4197 |

|                                       |      |
|---------------------------------------|------|
| ROBERT PHILLIPS                       |      |
| Direct Examination by Mr. Bloom.....  | 4204 |
| Cross Examination by Mr. Durant ..... | 4240 |

|                                      |      |
|--------------------------------------|------|
| MARK CUNNINGHAM                      |      |
| Direct Examination by Mr. Bloom..... | 4262 |
| Cross Examination by Ms. Wilson..... | 4312 |

|                                      |      |
|--------------------------------------|------|
| ADELE WATSON                         |      |
| Direct Examination by Mr. Bloom..... | 4335 |