

ORIGINAL

VOLUME FOUR OF TEN

STATE OF SOUTH CAROLINA
In The Supreme Court

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

S.C. Supreme Court

THE STATE,

RESPONDENT,

V.

WILLIAM O. DICKERSON,

APPELLANT

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1 JUROR NUMBER 364: Yes, sir.

2 THE COURT: You need ---

3 SOLICITOR WILSON: Take your time.

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

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

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

10 JUROR NUMBER 364: No, sir.

11 THE COURT: Then please answer the
12 question?

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

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

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

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

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

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

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

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

3 (JUROR NUMBER 364 EXITS COURTROOM)

4 THE COURT: Solicitor?

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

19 THE COURT: Do you wish to be heard?

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

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

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

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

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

17 THE COURT: Response?

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

25 THE COURT: Well, I don't quarrel

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

4 SOLICITOR WILSON: Sure.

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

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

25 THE COURT: I don't quarrel that

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

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

24. SOLICITOR WILSON: I do have
25. another question.

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

3 (JUROR NUMBER 364 ENTERS COURTROOM)

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

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

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

12 THE COURT: Can you answer for us?

13 JUROR NUMBER 364: "Yes."

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

16 EXAMINATION CONTINUED

17 BY SOLICITOR WILSON:

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

21 A. (No verbal response).

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

1 verbal responses. Okay?

2 JUROR NUMBER 364: (Affirmative nod).

3 No, I don't.

4 EXAMINATION CONTINUED

5 BY SOLICITOR WILSON:

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

8 A. (No verbal response).

9 Q. Do you have any thoughts about that?

10 A. No, I don't.

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

17 A. (No verbal response).

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

20 A. The death penalty?

21 Q. Yes.

22 A. Never appropriate.

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

1 you would make?

2 A. (No verbal response).

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

5 A. Yes, ma'am.

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

10 A. Yes, ma'am.

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

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

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

24 A. (No verbal response).

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

1 A. Yes, ma'am.

2 Q. Was that the truth?

3 A. No, ma'am.

4 Q. So did you ---

5 A. No. I misunderstood your question.

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

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

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

14 A. Yes, ma'am.

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

18 A. No, ma'am.

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

20 A. (Negative gesture).

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

23 THE COURT: Certainly.

24 EXAMINATION CONTINUED

25 BY SOLICITOR WILSON:

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

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

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

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

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

14 A. Yes, ma'am.

15 Q. No problems with that?

16 A. I could sign my name.

17 SOLICITOR WILSON: Thank you.

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

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

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

1 (JUROR NUMBER 364 EXITS COURTROOM)

2 THE COURT: All right. Solicitor?

3 SOLICITOR WILSON: She's sandbagging

4 but there's nothing that I can do about.

5 BRUCE DURANT: Your Honor, ---

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

7 Clear.

8 BRUCE DURANT: She's inconsistent.

9 Very ---

10 THE COURT: Oh, I don't quarrel with
11 that. What is your position?

12 SOLICITOR WILSON: I think she's
13 disqualified, Your Honor.

14 THE COURT: How do I, in fairness,
15 intelligently, when somebody says -- what
16 concerns me here is, really, now -- it really
17 goes into the education. How can somebody
18 evaluate something when they can't even tell
19 you what it means to them? I mean, what is
20 life imprisonment without the possibility of
21 parole? I mean, how does she assess that when
22 she can't even respond to that? I guess that
23 is my first question.

24 MR. BLOOM: Judge, I would go back
25 to your initial observation that she clearly is

1 nervous, scared, intimidated by this process.
2 She's never experienced anything like it.
3 That's obvious. She's never been in a witness
4 chair before, having questions posed to her
5 which she hasn't given much thought to.

6 THE COURT: Right. I don't quarrel
7 with that except that we're about to heighten
8 this thing. I mean, it doesn't get easier from
9 this point on. It gets more intimidating from
10 the standpoint that you're in a room with
11 twelve people who you don't know -- as you've
12 asked jurors, 'you would talk about your
13 rationale.' How is this person going to
14 effectively communicate when she won't even
15 communicate here.

16 MR. BLOOM: I think the difference
17 is that she's under a spotlight here. She's
18 the only one on the witness stand, having
19 questions posed to her by ---

20 THE COURT: All right. This is --
21 I am going to tell you what this is. This is
22 *Cottrell* ruling, Ruling #1. You're right but
23 I'm going to deny it and let her be on the jury
24 panel because I'm not going to have it come
25 back because somebody reads a cold record and

1 says 'No, she didn't equivocate any more than
2 anybody else that you let sit.' Thank you very
3 much, Solicitor.

4 SOLICITOR WILSON: I would ask that
5 you note your observation ---

6 THE COURT: I note that my
7 observation are -- I don't know the reason she
8 is not responsive. I really don't. I've said
9 that. I still -- I still think she -- I think
10 she did, just as the other jurors who have
11 responded and changed their mind and said,
12 'Well, I made a mistake.' I acknowledged that
13 on the record, I think. She did the same
14 thing.

15 I don't quarrel with you that what
16 I've seen thus far would lead me to conclude
17 that she is sandbagging. No question. But
18 what I've seen thus far leads me also to
19 conclude that she is a very uneducated,
20 frightened person who has responded to some
21 questions -- maybe she has been instructed,
22 maybe she's not but -- I don't think she -- I
23 think she responded too much information to be
24 totally prepared outside of this courtroom.
25 There was some suggestion that she had talked

1 to somebody and that's the only reason that I
2 mention that.

3 I appreciate your position, Solicitor.
4 This is one that I am going to say that they
5 are entitled to have the person on the jury
6 panel.

7 SOLICITOR WILSON: I hate to try your
8 patience, but in light of your observation and
9 also in light of Mr. Bloom's observation, I
10 think that's an additional reason outside of
11 any sort of thoughts or opinions on
12 sandbagging. If she is that frightened and
13 that intimidated, I think she is disqualified
14 as being a juror -- forgot about as a death
15 penalty ---

16 THE COURT: The bottom line is that
17 the problem that I have -- and I started to do
18 that, for that very reason, except for one
19 thing. There's a world of difference from
20 sitting on that stand and sitting in the jury
21 room. I don't think that the Court is going to
22 allow me to make that leap of faith and say,
23 'Well, they won't be able to function in the
24 confines of the jury room.' So that's the
25 concern I have. I can see the Court of Appeals

1 saying, 'Nope, you can't make that call, Judge.

2 That's based on what?' I don't have anything

3 to base on it. Thank you.

4 Bring her in.

5 (JUROR NUMBER 364 ENTERS COURTROOM)

6 THE COURT: Thank you, Ms. Grant.

7 Thank you very much, and I appreciate your

8 patience. You've been found to be qualified to

9 be a member of the panel from which we will

10 select our jury.

11 That will take place Thursday morning

12 at 9:30 in this courtroom. I am going to ask

13 that you return Thursday morning by 9:30. When

14 you come back, you can take your seat in the

15 audience. We will select our jury. Please

16 understand once we select the jury, we will be

17 prepared to start trying the case, so be

18 prepared to stay for the day if need be because

19 we will begin the trial. So be prepared to

20 stay with us if you're selected.

21 Until then and until you have been

22 dismissed from this case, please remember that

23 you still are not at liberty to discuss this

24 case with anyone or permit anyone to talk with

25 you about it. Also, please continue not to

1 watch any news programs about it or read any
2 news accounts. We'll see you Thursday morning.

3 JUROR NUMBER 364: Thursday?

4 THE COURT: Yes, ma'am, just come to
5 this courtroom and take a seat in the audience.
6 We'll see you then.

7 JUROR NUMBER 364: Okay.

8 THE COURT: You are excused and,
9 again, thank you for your patience.

10 (JUROR NUMBER 364 EXITS COURTROOM)

11 THE COURT: All right, I'll see you
12 in the morning at 9:30.

13 (COURT IN RECESS)

14 (TRANSCRIPT CONTINUED NEXT PAGE)

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1 APRIL 22, 2009

9:15 A.M.

2

3

(DEFENDANT PRESENT)

4

MR. BLOOM: Your Honor, may I

5

approach?

6

THE COURT: Yes, sir.

7

SIDEBAR:

8

MR. BLOOM: I just want to put

9

this on the record. Once Drew has -- we've

10

kind of divided up the duties and he's going to

11

leave today and go do some other things, and

12

I'm going to handle this.

13

THE COURT: All right.

14

MR. BLOOM: The Defendant

15

agrees to that. There's the two attorneys rule

16

and we just wanted to put it on the ---

17

THE COURT: No problem. Good

18

idea.

19

MR. BLOOM: --- record that we

20

met with the Defendant and that it is with his

21

consent.

22

THE COURT: Thank you.

23

(SIDEBAR CONCLUDED)

24

THE COURT: All right, let the

25

record reflect that Mr. Dickerson is present.

1 Good morning, Mr. Dickerson. You mentioned
2 that there is a matter that you need to address
3 before we bring in the juror?

4 MR. BLOOM: Yes, sir, there are two
5 different things.

6 THE COURT: Sure.

7 MR. BLOOM: One, Mr. Carroll and I
8 have of course divided up certain duties and we
9 have decided, along with discussion with Mr.
10 Dickerson, that Mr. Carroll is going to be
11 absent this morning for most of the remaining
12 voir dire. He has some duties to attend to in
13 this case, to prepare for the trial starting
14 tomorrow.

15 THE COURT: All right.

16 MR. BLOOM: It's with Mr.
17 Dickerson's consent. He and -- Mr. Dickerson
18 is aware that he is entitled to two attorneys
19 at all times, including all juror review, but
20 Mr. Carroll and I discussed that he needs to
21 attend to some other duties in this case and
22 that is with Mr. Dickerson's consent.

23 THE COURT: Is that correct, Mr.
24 Dickerson?

25 DEFENDANT: Yes, sir.

1 THE COURT: And you have had an
2 opportunity to discuss that fully with your
3 lawyers?

4 DEFENDANT: Yes, sir.

5 THE COURT: And you are comfortable
6 with Mr. Bloom handling this morning on your
7 behalf?

8 DEFENDANT: Yes, sir.

9 THE COURT: Very well. Mr. Carroll,
10 you will be excused, sir.

11 MR. CARROLL: Thank you, Your Honor.

12 THE COURT: You said you have two
13 matters?

14 MR. BLOOM: Yes, sir, it's also came
15 to our attention that Juror Elaine Prioleau,
16 Your Honor, Number 247, from yesterday, ---

17 THE COURT: Yes, sir.

18 MR. BLOOM: It came to our attention
19 after voir dire that there may be some
20 connection between her and the decedent's
21 family, the Roper family. I don't know if ---

22 THE COURT: Can you help me as to
23 what the connection is?

24 MR. BLOOM: On information and
25 belief that maybe her husband may know the

1 Ropers or that there may be some connection.

2 We are just asking if the Solicitor's office
3 has any information in that regard, that ---

4 SOLICITOR WILSON: I've asked and they
5 do not.

6 THE COURT: I would be happy to ask
7 Ms. Prioleau that specifically if you would
8 like for me to do so when we return tomorrow.

9 MR. BLOOM: Thank you, Your Honor.

10 THE COURT: Okay.

11 MR. BLOOM: That's all.

12 THE COURT: Her husband, you
13 believe?

14 MR. BLOOM: (Affirmative nod).

15 THE COURT: And, Solicitor, you are
16 not aware of?

17 SOLICITOR WILSON: I saw that your
18 husband worked with an ILA member and so does
19 Mr. Aven Roper, so I inquired of him about that
20 and he wasn't familiar with him.

21 MR. BLOOM: We are satisfied with
22 that, Your Honor.

23 THE COURT: So I don't need to
24 inquire of the juror, then?

25 MR. BLOOM: Your Honor, out of an

1 abundance of caution, I think I would ask just
2 a simple question or two tomorrow.

3 THE COURT: I will do that. We will
4 bring her forward and do it here rather than to
5 do it openly. We'll do it in front of the
6 court reporter, if that's all right, rather
7 than to do it in front of the entire panel.

8 MR. BLOOM: Yes, sir, that's fine.
9 Thank you.

10 THE COURT: Thank you.

11 MR. BLOOM: That's all that we have.

12 THE COURT: Thank you, Mr. Bloom, I
13 appreciate it. Is the State ready to proceed?

14 BRUCE DURANT: Yes, sir, Your
15 Honor.

16 THE COURT: And the Defendant is
17 ready to proceed, Mr. Bloom?

18 MR. BLOOM: Yes, sir.

19 THE COURT: Thank you very much.
20 Let's bring in our first juror this morning,
21 Juror Number 234.

22 SOLICITOR WILSON: Judge, before we
23 bring the witness (sic) in, I'm told that the
24 defendant's aunt may have met Ms. Prioleau at
25 an office function or something like that. She

1 doesn't know her, is not friendly with her but
2 may have met her at some point in the past.

3 THE COURT: What is the victim's
4 aunt's name?

5 SOLICITOR WILSON: Vidalia Chapman.

6 THE COURT: I'm sorry?

7 SOLICITOR WILSON: Vidalia Chapman.

8 She is not a potential witness, Your Honor.

9 THE COURT: Thank you.

10 (JUROR NUMBER 234 ENTERS COURTROOM)

11 THE COURT: Good morning, Mr. Page.
12 How are you, sir?

13 JUROR NUMBER 234: I'm good.

14 THE COURT: That's good. If you
15 will sit and pull yourself up so that you can
16 speak into that mic comfortably.

17 JUROR NUMBER 234: Yes, sir.

18 THE COURT: We appreciate you being
19 here this morning. We are going to continue
20 the process that we started on Friday. I have
21 questions that I need to ask of you, the
22 attorneys will have some questions that they
23 probably will need to ask, and -- this really
24 is a continuation and, as you'll recall, those
25 questions really have no correct answers. They

1 are designed to help all of us, you included,
2 make a determination as to whether you can be a
3 fair and impartial juror.

4 The only thing that we ask is that you
5 respond truthfully and candidly and that you
6 answer the questions completely. I am
7 confident that you will do that. Are you
8 willing to do that?

9 JUROR NUMBER 234: Yes, sir.

10 THE COURT: I would remind you, sir,
11 that you are still under oath in this matter.
12 Okay?

13 JUROR NUMBER 234: Okay.

14 MICHAEL J. PAGE, being duly sworn
15 to tell the truth, the whole truth and nothing
16 but the truth, testified, as follows:

17 VOIR DIRE EXAMINATION

18 BY THE COURT:

19 Q. Mr. Page, since we were together on
20 Friday, have you talked with anyone, permitted
21 anyone to talk with you, watched any news
22 programs or read any news articles about this
23 trial?

24 A. No, I told somebody that they were trying
25 to put me on a death penalty case. But, no, I

1 haven't.

2 Q. How much conversation did you have about
3 the case?

4 A. No, nothing. Nothing at all. I told them
5 that I didn't know anything about it.

6 Q. In your words "they're trying to put me on
7 a death penalty case", ---

8 A. Right.

9 Q. What do you mean by that?

10 A. Well, picking the jury.

11 Q. All right. Does that create a problem for
12 you?

13 A. Well, I'm just worried because I've got a
14 big mouth and I don't want to mess up y'all's
15 case. I mean, I'm just worried to death that I
16 will have everybody mad at me.

17 Q. I appreciate that. That's something that
18 we will certainly explore but the good thing
19 about it is that the jury, except for when they
20 are in the jury room, and that's up to you and
21 I assume you -- you've been working in your
22 life, it appears.

23 A. Yes, sir.

24 Q. In fact, as I understand, you're an
25 auctioneer and you have your own business, an

1 antique business?

2 A. Yes. I am a licensed auctioneer, I'm also
3 a commercial pilot and own Hungryneck Antique
4 Mall in Mount Pleasant, and my family owns
5 Hayden's Meat Market.

6 Q. So you understand how to -- the need to
7 get along with people?

8 A. I try, (affirmative nod).

9 Q. Well, the good thing about it is that once
10 you're selected, if you're selected, you'll be
11 sitting there listening more than you will be
12 talking. Okay?

13 A. That's good.

14 Q. All right, sir. I need to ask you -- I
15 identified a number of persons Friday and I
16 failed to mention two names that I need to ask
17 you about. Are you related by blood or
18 marriage, have any business dealings with or
19 socially or casually acquainted with or have
20 any dealings with Jeff Osborne or Matt Casey?

21 A. I've heard the name Osborne, a guy that is
22 in the car business in Greenville. I've heard
23 of a lot of Osbornes.

24 Q. But not somebody locally?

25 A. I don't think so; no, sir.

1 Q. Assuming for just a moment that if the
2 person you know in Greenville, and I don't
3 think that this person has ever been in
4 Greenville or in the car business, so we -- the
5 fact that you know somebody named Osborne ---

6 A. Right.

7 Q. --- wouldn't affect you?

8 A. No, sir.

9 Q. And if a person by the name of Jeff
10 Osborne testifies or is involved in this case,
11 would you be able to consider his testimony the
12 same as any witness?

13 A. Yes, sir, I believe so.

14 Q. And would you weigh his testimony,
15 consider his testimony, the same notwithstanding
16 that you may know somebody by the name of
17 Osborne?

18 A. Yes, sir.

19 Q. Thank you. You were given a sheet when
20 you came in this morning that set forth three
21 types of jurors. Have you had an opportunity
22 to review that list?

23 A. Yes, sir, I've read it several times.

24 Q. Okay. Of the three types shown, which one
25 most accurately depicts you?

1 A. I guess I'd have to fall under number
2 three.

3 Q. When you say that you guess, you have some
4 doubt about where you ---

5 A. No, I don't really. I guess I would fall
6 under number three, as far as -- (pause).

7 Q. Okay. Number three is basically the type
8 of juror, as I understand that basically in a
9 situation where the jury has the responsibility
10 of determining the appropriate punishment for
11 murder, that type of juror is a juror that says
12 'I wouldn't know what the appropriate sentence
13 would be until I'd heard everything.'

14 A. I would think, (affirmative nod); yes,
15 sir.

16 Q. And that there are circumstances in my
17 mind that may justify a death sentence and
18 there are circumstances that while I could have
19 imposed a death sentence, I would choose to
20 impose life imprisonment instead?

21 A. I've never really thought about this until
22 this came up but I just -- I've been real
23 worried, like I said on my questionnaire that
24 I'm not sure about the death penalty -- on that
25 question that you'all asked me. I just don't,

1 I'd hate to be responsible to decide somebody's
2 life.

3 Q. I understand that. I understand that you
4 say that you'd hate to be responsible and I
5 understand that. That's a very human response.
6 My question is this, let's talk for a moment
7 and talk about the situation that sheet
8 presents. Okay?

9 A. Okay.

10 Q. At that point in time you would be a juror
11 in a case, a criminal dispute where murder was
12 the charge. Okay?

13 A. Okay.

14 Q. You will have finished one portion of that
15 proceeding, that is the first portion where the
16 State had the responsibility of proving that
17 charge beyond a reasonable doubt. Obviously
18 the jurors are now faced, those (number) three
19 jurors are faced with the decision, faced with
20 the next stage, they are going to have to make
21 a determination in accordance with the law and
22 the facts of whether to sentence that person to
23 life imprisonment or the death penalty. Do you
24 understand that?

25 A. Yes, sir.

1 Q. So the question I would ask you given your
2 -- and, as I stated, there are no correct
3 answers. Let me state to you again that we're
4 not asking you to feel guilty about anything
5 that you feel. You're entitled to your
6 beliefs. Nobody is challenging those beliefs.
7 The question is, as I told you on Friday when I
8 asked you some of the questions, are these
9 beliefs something that will impair or affect
10 your ability to be a juror, a judge with me.
11 That is -- because this is what you have to do:
12 as a juror, that juror that we are talking
13 about in this abstract case, has made a
14 commitment to all the parties and to the court
15 that they are willing to apply their common
16 sense, their sense of logic and reasoning
17 fairly as the appropriate time in analyzing
18 evidence. Evidence consists of testimony of
19 witnesses and exhibits and that's it. Making
20 a decision of what they believe to be the true
21 facts and then once making that decision taking
22 the law that the presiding judge gave to them
23 and applying that law fairly and impartially
24 notwithstanding their personal opinions or
25 feelings about something.

1 So what the jurors have said is simply
2 this, 'I can do the first thing. I can be that
3 judge.' And, 'I can set aside my strong
4 beliefs, my philosophies, my thoughts of what
5 the law should be or might be or could be and I
6 would take the law as the court gave it to me
7 and apply that law.' That's the question.

8 At that point, are you a type three juror?
9 And a type three juror says at that point,
10 'I've been through a trial' -- you've been
11 through the first part, you've heard
12 everything, you've determined this, you've
13 determined that that person who was accused of
14 murder was the person that committed the crime,
15 number one, no question about it, beyond a
16 reasonable doubt. Secondly you've
17 concluded that the crime that was committed,
18 the killing that was committed was a murder.
19 That's important because murder in this state
20 is the intentional killing of another with
21 malice. That means that it is not an accident,
22 it's not self-defense, it's not somebody
23 getting upset about something that they were
24 provoked into doing something, which would be
25 manslaughter in this state. In other states

1 it's called second and third degrees, varying
2 degrees. We don't have those in this state.
3 It's murder or manslaughter if someone is
4 killed ---

5 A. Yes, sir.

6 Q. --- or involuntary manslaughter. So it is
7 none of those, it's not manslaughter, not
8 involuntary manslaughter, it's murder. They
9 went out and they wanted to kill somebody and
10 they killed them, it was a malicious killing.
11 They were motivated by evil thoughts, an evil
12 spirit.

13 That is what has been decided at this
14 point. At this point, if you're on that jury,
15 do you have in your mind the appropriate
16 sentence? Because the important thing to do
17 is, before you started, the court was going to
18 say, 'Now, you're going to hear evidence in the
19 second phase when we talk about the appropriate
20 sentence, what sentence is appropriate, you're
21 going to hear additional evidence, evidence
22 that you did not hear in the first phase, that
23 will assist you in making that decision.'

24 The question is, just because you've
25 convicted him of murder do you have a sentence

1 in your mind?

2 A. No, sir.

3 Q. Okay. The second phase, you would deal
4 with something, because it's very important
5 that you keep that open mind -- for a number of
6 reasons.

7 Number one, because that the -- that's one
8 of the critical parts about being a juror, that
9 you have an open mind. Remember I asked you --
10 for instance, just for a second, and Mr.
11 Dickerson of course is accused of some criminal
12 offenses, we talked about it on Friday.

13 A. (Affirmative nod).

14 Q. You and I talked about it and I told you
15 that one principle of law that applies is that
16 he is presumed innocent. I asked if anybody
17 had any problem with that principle of law and
18 you did not have a problem with that?

19 A. (Negative gesture).

20 Q. So as he sits here this morning, do you
21 see him as innocent?

22 A. I don't know the man but, yeah, I would --
23 yes, sir, I'd look at him as innocent until I
24 hear all the evidence. Yes, sir.

25 Q. Well, the law goes even further than that.

1 It's not only that you hear all the evidence
2 but that after deliberating a case and the
3 court has told you to start, you have to
4 maintain that position that he is. That's what
5 it means, an active presumption.

6 It means that mentally we have to actively
7 presume that until the State persuades you
8 beyond a reasonable doubt that he is guilty.
9 That would come only after you've had a chance
10 to hear all the evidence, to receive the law
11 and to deliberate. That's what I am talking
12 about, keeping that open mind.

13 You would do that if you were on a jury?

14 A. Yes, sir, I believe I could do that.

15 Q. Okay. Given that, then that jury that
16 we're talking about here, that's on that sheet
17 that we've been discussing, that jury has made
18 that same commitment, that they will keep that
19 open mind. What I heard you just say is, 'yes,
20 I can keep an open mind.'

21 That's important because, in this state
22 typically in a murder situation the jury is not
23 involved in sentencing. Usually the jury tries
24 the first part and determines whether the State
25 meets its burden of proof. If they do, if they

1 convict him of murder, then the trial judge,
2 the presiding judge imposes a sentence.

3 That typically -- the maximum sentence
4 that can typically be imposed in a murder,
5 there are those rare situations where it's
6 something else, but no need to discuss that
7 because that's really not applicable, is --
8 the most that the trial judge can give, the
9 strongest, the harshest sentence, is life
10 imprisonment without the possibility of parole.
11 We are not bound to that, there's a lesser
12 sentence that we can give, but that's the most
13 that we can give for the offense of murder. So
14 a judge can't even impose a death sentence in
15 that setting.

16 What the law says is that there are
17 circumstances surrounding murders, that the
18 statutes provide that if certain aggravating
19 circumstances are present beyond a reasonable
20 doubt then a jury may consider imposing a death
21 sentence. So the second phase, one of the
22 primary reasons in addition to receiving other
23 evidence that will be assisting you in imposing
24 a sentence, the first thing that a jury has to
25 impose, to consider, is whether or not there's

1 an aggravating circumstance present. The State
2 has to prove that beyond a reasonable doubt.
3 So that's a very important part of that second
4 phase. Again, you can understand why it is so
5 important that you not have a predetermined
6 sentence. If there's no aggravating
7 circumstance, you can't even consider a death
8 sentence. The only sentence that I -- I would
9 instruct you, if I were the presiding judge --
10 the only sentence that you can impose is life
11 without parole. Would you have any problem
12 following that instruction?

13 A. No, sir.

14 Q. Okay. Let's go to the next step.

15 Assuming that that jury, of which you were a
16 member, after hearing all the evidence and after
17 receiving the law, decides 'yeah, the State's
18 established an aggravating circumstance'.
19 There are a number of them and I give you an
20 example of some. The State has provided that
21 where -- if there's the killing of a police
22 officer, the killing of a child. Those are two
23 situations. There are others. Those are
24 considered aggravating circumstances, which if
25 the jury finds beyond a reasonable doubt then

1 they can consider imposing a death sentence
2 from that murder. But you will have determined
3 that there is at least one, at least one of the
4 aggravating circumstances is present.

5 You are going to hear other evidence about
6 the appropriate sentence, that will assist a
7 jury in making its determination. One aspect
8 that you may hear is something called
9 "mitigating circumstances". Some of those are
10 statutory, meaning that there is a statute
11 setting forth things, and some are
12 nonstatutory.

13 Mitigating circumstances are equally
14 important for the jury to give consideration to
15 because the law says that if there are
16 mitigating circumstances in the evidence, a
17 juror has to be willing and must give serious
18 consideration, and truly consider that, those
19 mitigating circumstances. If they don't, then
20 obviously they're not being -- now they'd
21 obviously not be considering all the evidence.

22 Now, I am not saying that you have to vote
23 one way or the other because of them but you
24 have to be willing to seriously consider those.
25 Mitigating circumstances, there are a number of

1 those, too, provided by statute. Some of them
2 are the upbringing of the defendant when he was
3 a child, what occurred during childhood,
4 sometimes child abuse and those types of things
5 may be evidence, may be germane to the issue,
6 substance abuse, addiction, mental health
7 issues, maybe there are some emotional problems
8 that a person had during their life. Those are
9 matters that the law recognizes.

10 While they don't excuse it, they are
11 factors that the jury may consider in making --
12 while the crime has been elevated because of
13 the aggravating circumstances, mitigating
14 circumstances tend to lessen it or it gives you
15 some explanation. That's important, obviously,
16 in fashioning a sentence.

17 Could you give consideration and would you
18 give consideration to any mitigating
19 circumstances?

20 A. Yes, sir, I believe that I could. Yes,
21 sir.

22 Q. All right. Another thing that I would
23 tell you in that trial and, of course, it
24 applies in this one, as well. Persons who
25 are accused of committing criminal offenses

1 in this state or in this country are not
2 required to prove anything at all. They don't
3 have to present any evidence, they don't have
4 to prove their innocence, they don't even have
5 to testify. If they choose not to, I would
6 instruct the jury that they could not use that
7 against that person in any way. Do you have
8 any problem with that principle of law?

9 A. No, sir, that would probably be a good
10 thing.

11 Q. Well, you should never look, in this case
12 that we are talking about, the judge would have
13 instructed you and you cannot look to the
14 defendant to prove anything, in either phase,
15 first or second phase. For instance, if the
16 defendant -- if there weren't any mitigating
17 circumstances, no testimony from the defendant
18 in the second phase, the law says that you
19 can't consider that against him. Do you have
20 any problem following that instruction?

21 A. No, sir.

22 Q. Because the State has the burden of proof.

23 A. Yes, sir.

24 Q. Because that's important for another
25 reason. A part of the charge that I would say

1 to you, while we have the aggravating
2 circumstance which entitles you now as a juror
3 to consider the death sentence, and you could
4 consider mitigating circumstances as a reason
5 for not imposing the death sentence for
6 instance, you also -- I would tell you
7 something else. You can impose -- even though
8 you have the right to impose a death sentence,
9 the jury has the right to impose life
10 imprisonment without the possibility of parole
11 for no reason whatsoever, if you just choose to
12 do that. So you can begin to see again why it
13 is so critical that you have that open mind.
14 You could be able to consider that, as well?

15 A. Yes, sir, I do believe that I can.

16 Q. Now, the question, it comes to that part
17 and this is where we get to the point of your
18 concern. You're now at this point in this case
19 that we've been talking about that's on that
20 sheet, you're on this jury, an aggravating
21 circumstance has been established, there may be
22 mitigating circumstances, there may not be, but
23 you now have the option. You can impose life
24 imprisonment without the possibility of parole
25 or you can impose a death sentence.

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1 The question that I have for you, in your
2 mind, and I am not asking you to tell me what
3 those circumstances are, but are there
4 circumstances that if you were in that case, if
5 those circumstances existed that you could --
6 you could say, 'Well, I have a chance -- I
7 could impose one or the other. I believe in
8 this case the most appropriate sentence is
9 death.' Could you do that?

10 A. I believe that I could, sir. But like I
11 said, I would not want to.

12 Q. I didn't ask you that.

13 A. Yes, sir, I could.

14 Q. The question is -- and that's why I -- I'm
15 not being unsympathetic to you. I'm asking you
16 -- because, remember what I said. I said the
17 jury has made a commitment that notwithstanding
18 their personal feelings they are willing to set
19 those aside and follow the law and the law at
20 that ---

21 A. Yes, sir.

22 Q. --- point would say that you have that
23 option.

24 A. Yes, sir.

25 Q. So you could comply with the judge's

1 instruction?

2 A. Yes, sir.

3 Q. That would mean, if you chose the death
4 sentence, that you would have to sign a form
5 saying that that is the sentence; as one of the
6 jurors, you could perform that function?

7 A. I will say again that I would not like to
8 but, yes, sir, I think I could.

9 Q. Okay. Likewise -- likewise in that
10 situation there are circumstances in your mind,
11 and I am not asking you to tell me what they
12 are, that while you could have imposed a death
13 sentence you would chose not to. Is that
14 correct? In other words, you would choose to
15 impose life without the possibility of parole?

16 A. Not necessarily. No. It's getting
17 confused now. If we've crossed this point of
18 -- in my mind that I wanted to ---

19 Q. No, no, I'm not asking you in a case where
20 you would think absolutely these circumstances
21 warrant a death sentence. I am not saying that
22 situation. I am saying because -- we don't
23 know what the circumstances are in this case.

24 A. Right, right.

25 Q. I am just asking you whether there are

1 circumstances that while you may be able to,
2 while you may be entitled to impose a death
3 sentence, you would chose not to -- for a
4 murder.

5 Let me say something else that I failed to
6 mention. The court is never going to tell you
7 that you have to do one or the other.

8 A. Right.

9 Q. Except that if you don't find an
10 aggravating circumstance, then you have to
11 return life imprisonment without the
12 possibility of parole. But if you have the
13 option, that's your choice. You get to pick.

14 A. Right.

15 Q. My question is, if you get to that point,
16 is it your feeling that the death sentence
17 would be the only sentence that you would
18 impose?

19 A. Well, I would like to hear all the
20 evidence. Right now I ---

21 Q. I understand the ---

22 A. I could impose the death sentence, yes,
23 sir.

24 Q. I understand that, but could you also
25 equally, if you had the right to impose a death

1 sentence, decide not to impose the death
2 sentence but rather depend on life imprisonment
3 without the possibility of parole?

4 A. Yes, sir.

5 Q. And you could pick between the two?

6 A. Yes, sir.

7 Q. As to which one you think was most
8 appropriate?

9 A. Right.

10 Q. Because, as I stated, just because those
11 aggravating circumstances exist that doesn't
12 mean that you have to impose the death
13 sentence. You still have the right to impose
14 life imprisonment. Do you understand that?

15 A. Yes, sir.

16 Q. But it is my understanding that just
17 because aggravating circumstances have been
18 established, that doesn't automatically mean in
19 every situation that you're going to impose a
20 death sentence; is that correct?

21 A. Right.

22 Q. Okay. I just want to be clear on that. I
23 thought that's what you said.

24 A. Right. I just would like to hear ---

25 Q. Oh, I understand that. Nobody is asking

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1 you which way, because you don't know the
2 facts.

3 A. Right.

4 Q. What you said to start with is, 'I am a
5 type three juror, and I have to know the
6 facts.'

7 A. Right. Yes, sir.

8 Q. Now, let's focus just for a moment our
9 attention -- just with respect to this
10 particular case. We now have left this
11 hypothetical case.

12 A. Right.

13 Q. As I mentioned to you and you've already
14 stated, you see Mr. Dickerson as being innocent
15 of these charges.

16 A. (Affirmative nod).

17 Q. And you understand that that has to remain
18 until -- if you're on the jury, until you've
19 been instructed to make a decision otherwise.
20 Do you understand that?

21 A. Yes.

22 Q. You'd have no problem doing that?

23 A. No, sir.

24 Q. And as I understand, you believe that you
25 could at the appropriate time apply your common

1 sense, your sense of logic and reason in
2 analyzing the evidence and decide what you
3 believe to be the true facts?

4 A. I believe that I could, yes.

5 Q. You've heard nothing -- nothing that
6 you've heard about this case thus far would
7 give you any concern about your ability to do
8 that?

9 A. No, sir.

10 Q. Also, nothing that you've heard thus far
11 would give you any concern about your ability
12 to do what we talked about in the abstract
13 case; that is, whatever instruction that I give
14 -- if it is in any way in conflict with any
15 personal beliefs you have and I tell you that's
16 the law, you're willing to follow that law and
17 set aside your personal beliefs?

18 A. Yes, sir.

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

22 VOIR DIRE EXAMINATION

23 BY SOLICITOR WILSON:

24 Q. Good morning, Mr. Page. I'm Scarlet
25 Wilson, I'm the Solicitor here. This is Bruce

1 Durant and Rutledge Durant and the three of us
2 will be the ones prosecuting the case once we
3 get started presenting evidence.

4 Before that, I am going to ask some
5 questions to follow up on what the Judge asked
6 you, about some of your answers, and also some
7 of your answers to the questionnaire.

8 I know that you've answered a lot of 'yes'
9 and 'no' questions, but sort of in your own
10 words, tell me your thoughts on the death
11 penalty and on life without parole.

12 A. I hadn't ever thought about it until this
13 had come up.

14 Q. Really?

15 A. Really. I hadn't. I really hadn't
16 thought about it.

17 Q. Have you been thinking about it since you
18 got the questionnaire or since Friday when we
19 were all here together?

20 A. Yeah.

21 Q. And what did you come up with?

22 A. Like I've said several times already, I
23 don't want to do it.

24 Q. Right. Well, hopefully most people don't
25 want to do it.

1 A. Right.

2 Q. If -- you know, there are some people who
3 think always 'guilty, death penalty' and there
4 some people who think 'never, it's just not
5 right.'

6 A. No, I'm not either way.

7 Q. Okay. You think you are probably about in
8 the middle?

9 A. I think so. Yes, ma'am.

10 Q. And life without parole, do you think
11 that's a pretty severe ---

12 A. That's harsh. Yes, ma'am.

13 Q. And the Judge went over with you sort of
14 the two-phase process. The State again would
15 have to prove guilt beyond a reasonable doubt
16 first.

17 A. As far as guilty or not guilty,
18 (affirmative nod).

19 Q. Right. Then the second phase would start.
20 Then you, as a juror, if you were on a case or
21 on any death penalty case would have to
22 continue to hold us to our burden of proving
23 that aggravators beyond a reasonable doubt.
24 We just have to prove one but if we proved it
25 beyond a reasonable doubt you could then think

1 about the death penalty and consider it?

2 A. I would consider it.

3 Q. Okay. At that point, after we did that,
4 the defense would have an opportunity to
5 present things about the defendant that may
6 make you understand why -- understand why the
7 defendant acted the way that the defendant
8 acted or things about the crime that maybe
9 weren't relevant to the guilt phase but that
10 might shed some light on it. You wouldn't have
11 any problem listening to that?

12 A. No, ma'am.

13 Q. Again, the key question is, even though --
14 we've just got to know that even though you
15 would consider it, are you saying, you know,
16 'yeah, I would consider it like I'd consider
17 flying to the moon' or you really would think
18 harder and realistic; that in some situations
19 you could sign your name to that death
20 sentence?

21 A. I could see giving a death sentence.

22 Q. Okay.

23 SOLICITOR WILSON: That's all that I
24 have, Your Honor. Thank you, Mr. Page.

25 THE COURT: Mr. Bloom?

1 VOIR DIRE EXAMINATION

2 BY MR. BLOOM:

3 Q. Good morning, Mr. Page. How are you
4 today?

5 A. Good morning, I'm fine.

6 Q. My name is Jeff Bloom. Along with Jeff
7 Bloom and, along with Andrew Carroll who is out
8 of the courtroom right now attending to other
9 duties, we represent William Dickerson. I just
10 have a few questions to follow up with you.

11 I am not going to repeat all the questions
12 that the Solicitor or the Judge asked you. I
13 did want to go back to one thing. The Judge
14 explained mitigating circumstances to you.

15 A. (Affirmative nod).

16 Q. Sometimes we use legal phrases and I just
17 want to make sure you can fully consider those
18 and give meaningful consideration to them.
19 Some of the things, when a jury comes to the
20 point where they are trying to decide between
21 one penalty or life without parole, are things
22 like how someone is raised as a child. Is that
23 something that you can give meaningful
24 consideration to, their upbringing?

25 A. Yes, sir. Yes, sir, I would.

1 Q. Okay. That is something that you'd be
2 interested in hearing as a juror?

3 A. I would think so. Yes, sir.

4 Q. The reason that I ask -- and there are
5 others, such as -- you know, drug addiction.
6 Is that something that you ---

7 MR. BLOOM: Are we starting to ---

8 THE COURT: We are. I've given him
9 examples. Thank you. Please move on.

10 MR. BLOOM: All right.

11 EXAMINATION CONTINUED

12 BY MR. BLOOM:

13 Q. The Judge listed those examples --
14 upbringing, drug addiction, mental health --
15 and what I asked you is that some jurors say,
16 'You know, I am just going to focus on what
17 happened at the time of the incident or the
18 facts of the crime. Anything that doesn't have
19 anything to do with the crime, I'm just not
20 interested in.' I am just trying to make sure
21 which group you're in.

22 A. I'm -- (sighs) -- I would weigh the
23 evidence. I would hear what brought things to
24 the way that they got there but, you know, the
25 crime is probably what we'd be talking about.

1 So, I don't know. I really don't know. I
2 mean, I'd have to be there, hear it all, hear
3 all the evidence.

4 Q. Okay. I guess what I'm asking is that you
5 wouldn't just stop in terms of looking at the
6 evidence of the crime itself. You would listen
7 to the judge's instruction, listen to anything
8 that came out?

9 A. Right.

10 Q. Because, as you said, some jurors just
11 don't want to hear how someone was raised or
12 how they ---

13 A. Right.

14 Q. You're not one of those jurors? You're
15 going to give meaningful consideration to that
16 type of evidence that may have nothing to do
17 with the crime itself?

18 A. Right. I would listen to it, yes.

19 Q. Of course, every juror is going to listen.
20 They're not going to sit there in the jury box
21 with their fingers in their ears. What Judge
22 Dennis asked you was if you could give
23 meaningful consideration to that type of
24 evidence.

25 A. Yes, sir, I would pay attention to what

1 was going on and I would try to put it into my
2 decision. Yes, sir.

3 Q. Okay. All right. The next thing that I
4 want to ask you is that Judge Dennis instructed
5 you that -- you understand that a death
6 sentence is never required?

7 A. Right, that's what I heard him say.

8 Q. The judge would never order you that if
9 you found this piece of evidence or that piece
10 of evidence that you'd have to vote for death.
11 It's totally your choice. Do you understand?

12 A. Right.

13 Q. Each juror's choice to vote for the
14 ultimate punishment or for life without parole.
15 Do you understand that?

16 A. Yes, sir.

17 Q. The law calls that an individualized,
18 reasoned moral judgment. Can you accept that?

19 A. Yes, sir.

20 Q. You could make your own individualized,
21 reasoned moral judgment including life without
22 parole?

23 A. Yes, sir. I believe that I can. Yes,
24 sir.

25 Q. If you were with eleven other jurors and

1 eleven jurors were voting -- well, let me back
2 up. After you'd heard all the evidence and all
3 the circumstances and Judge Dennis had charged
4 you on all the law and you had discussed and
5 debated it with all your fellow jurors,
6 listened to them they had listened to you, and
7 I think you've told us that you're pretty
8 vocal, ---

9 A. (Affirmative nod).

10 Q. But if you had come to your own
11 individualized, reasoned moral judgment and
12 eleven jurors were voting one way but you were
13 secure in your individualized, reasoned moral
14 judgment, would you stand your ground?

15 Would you stand your ground or would you
16 just say, 'You know what? I've got to get back
17 to work' or 'I'm hungry, it's late. I'm just
18 going to go along to get along.'

19 A. No, I would have to stand my ground if I
20 felt strongly about it. Yes, sir.

21 Q. All right. And you'd ask them to respect
22 your vote?

23 A. Right.

24 Q. And you would respect theirs?

25 A. I wish I would have to, (affirmative nod).

1 MR. BLOOM: All right. Thank you
2 very much, sir.

3 JUROR NUMBER 234: Yes, sir.

4 THE COURT: Solicitor, any
5 additional questions?

6 SOLICITOR WILSON: No, sir.

7 THE COURT: Thank you very much, Mr.
8 Page. If you would step out just for a moment,
9 we will be with you momentarily.

10 (JUROR NUMBER 234 EXITS COURTROOM)

11 THE COURT: While I believe Mr. Page
12 has expressed some concerns about signing a
13 death sentence, I am convinced from listening
14 to him that he could carry out and follow the
15 charge. I find that he is qualified. Any
16 objection from the State?

17 SOLICITOR WILSON: No, sir.

18 THE COURT: Any objection from the
19 defendant?

20 MR. BLOOM: No, sir.

21 THE COURT: Thank you. Ask Mr. Page
22 to step in, please.

23 (JUROR NUMBER 234 ENTERS COURTROOM)

24 THE COURT: Mr. Page, we've found
25 that you're qualified to be a member of the

1 panel from which we will select a jury in this
2 case.

3 That process will take place tomorrow
4 morning at 9:30. We need for you to report
5 here to the courtroom, come directly to the
6 courtroom and take a seat in the audience.
7 It shouldn't take very long but you need to be
8 prepared when you come to stay the day in case
9 you're on the jury, because we will start
10 trying the case tomorrow, as well.

11 Please have a good rest of the day.
12 Until then and until you have been dismissed
13 from this case, please remember that you still
14 are not at liberty to discuss this case with
15 anyone or permit anyone to talk with you about
16 it. Also, please continue not to watch any
17 news programs about it or read any news
18 accounts. We'll see you in the morning.

19 JUROR NUMBER 234: Yes, sir.

20 (JUROR NUMBER 234 EXITS COURTROOM)

21 THE COURT: Juror Number 7 (sic),
22 please.

23 (JUROR NUMBER 8 ENTERS COURTROOM)

24 THE COURT: Good morning. How are
25 you?

1 JUROR NUMBER 8: Good. How are you?

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

5 We are going to continue the process
6 that we started on Friday. I have some
7 questions that I need to ask of you and the
8 attorneys will probably have some questions,
9 as well. All that we ask is that, just as we
10 did on Friday, is that you truthfully respond
11 to those questions and that you be candid in
12 your responses and completely answer the
13 questions.

14 Please understand that nothing that
15 we are asking you is -- first of all, there
16 are no "correct" answers, nor are we
17 challenging any beliefs that you have. You're
18 entitled to those. We are not asking you to
19 justify any of those things, so don't feel
20 like you have to. Also, no one is here to
21 invade any privacy either. Okay?

22 JUROR NUMBER 8: Okay.

23 THE COURT: So I appreciate your
24 willingness to do that. Will you state your
25 full name for the record?

1 JUROR NUMBER 8: Christine Areheart.

2 THE COURT: Ms. Areheart, I would
3 remind you that you're still under oath in
4 this matter. Okay?

5 JUROR NUMBER 8: Yes, sir.

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

9 VOIR DIRE EXAMINATION

10 BY THE COURT:

11 Q. Since we were together on Friday, have you
12 talked with anyone or permitted anyone to talk
13 with you about this case?

14 A. No, sir.

15 Q. Have you read any newspaper accounts or
16 watched any news programs about the case?

17 A. No, sir.

18 Q. When we were together on Friday, I failed
19 to mention two names that I need to ask you
20 about. Are you related by blood or marriage,
21 have any business dealings with or socially or
22 casually acquainted with or have any dealings
23 with Jeff Osborne or Matt Casey?

24 A. No, sir.

25 Q. When you came this morning, you were given

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

4 A. Yes.

5 Q. Which type most accurately describes you?

6 A. Type three.

7 Q. Type three is basically the type of juror
8 that basically says -- obviously, as you can
9 tell from those three types, those jurors are
10 involved in a case where the jury is going to
11 ultimately make the decision on the
12 appropriate sentence. Do you understand that?

13 A. Yes.

14 Q. Let me set the stage, so to speak. The
15 point that those type three jurors are listed,
16 they would have heard all of the evidence in
17 the first phase. In other words, the State
18 would have proved that person guilty beyond a
19 reasonable doubt of the crime of murder. Now
20 they would be about to move into the second
21 phase where the jury was going to hear
22 additional evidence about the appropriate
23 sentence or the sentence to be imposed. Do
24 you understand that?

25 A. Yes, sir.

1 Q. As I understand it, a type three juror --
2 what I see that juror would be saying is that
3 at this point, notwithstanding that I have
4 already voted and deliberated on this person
5 and found that he committed the crime of --
6 that he or she committed the crime of murder,
7 but I have an open mind as to the appropriate
8 sentence, whether it would be death or life
9 imprisonment without the possibility of
10 parole. Is that true?

11 A. Yes, sir.

12 Q. Let me -- that's very important because
13 that open mind, I would suggest to you, is a
14 very important attribute of a juror. As you
15 noted on Friday, I asked if anybody knew
16 anything about this case and nobody did. As
17 I recall, you didn't. Is that correct?

18 A. Yes, sir.

19 Q. So that means that you don't have any --
20 at this point you have an open mind about this
21 dispute, is that correct?

22 A. Yes, sir.

23 Q. That's correct. Just as a judge would
24 have asked you in the case that -- that
25 abstract case that we're talking about, and

1 you would have said 'I do have an open mind.'
2 I would suggest to you that it's important in
3 all of it but it is extremely important in the
4 second phase, because typically in this state
5 a jury is not involved with sentencing in a
6 murder case. Okay?

7 A. (Affirmative nod).

8 Q. The jury hears the first phase and
9 determines whether the State has proved beyond
10 a reasonable doubt or can prove beyond a
11 reasonable doubt that a person did the crime.
12 That's what would have happened there. You
13 would have heard all the evidence and, as a
14 juror, you would have made a commitment, such
15 as if you're selected in this case will make,
16 that you would decide the case based on the
17 evidence and the law and you would be fair and
18 impartial. You would have evaluated the
19 evidence, would have deliberated with your
20 other jurors and you'all would have decided
21 that, yep, the State proved that this is the
22 person before you that was accused of the
23 crime was the person that committed it; and,
24 yes, the crime was murder.

25 It wasn't manslaughter, involuntary

1 manslaughter -- those are the two lesser
2 degrees of killing somebody in this state.
3 Manslaughter is when somebody provokes,
4 generally there is provocation involved and
5 they kill someone. Involuntary is when they
6 were acting recklessly or something of that
7 nature. Do you understand that?

8 A. (Affirmative nod).

9 Q. None of that applies in that case because
10 you've ruled that out. You've said that this
11 case that we have, no question this person
12 committed murder. Murder is the intentional
13 killing of someone with malice. So they were
14 motivated by an evil spirit, evil heart, they
15 intended to kill that person, they went out to
16 kill them and they accomplished it. So that's
17 what we are talking about here. Okay?

18 A. (Affirmative nod).

19 COURT REPORTER: Your answer was
20 "yes"?

21 JUROR NUMBER 8: (Affirmative nod).

22 THE COURT: Thank you, Ms.
23 Garrison. It's normal for us to do what we're
24 doing, nodding our heads but Ms. Garrison is
25 taking down everything that we're saying. So

1 if you will say 'yes' or 'no', that will help
2 us keep that record straight. Okay?

3 JUROR NUMBER 8: (Affirmative nod).

4 EXAMINATION CONTINUED

5 BY THE COURT:

6 Q. You would have decided that and --
7 normally when a jury makes that determination,
8 the trial judge then imposes the sentence.
9 The most -- the harshest sentence that a trial
10 judge can impose in a normal situation is life
11 imprisonment without the possibility of
12 parole. There are other options less than
13 that but that is the maximum sentence that can
14 be imposed. Do you understand that?

15 A. (Affirmative nod).

16 Q. A judge can't even impose in that setting
17 a death sentence. That is not even on the
18 table. That is not an option. Okay?

19 A. (Affirmative nod).

20 Q. Because our law says that only in certain
21 murders can that become an option, and that's
22 where this jury has been empaneled and that's
23 one of the things in addition to evidence that
24 you hear, because it's part of -- it's a
25 consideration that you would have for

1 justifying the sentence of death.

2 But the State has to prove the existence
3 of one aggravating circumstance before a jury
4 can even consider death. The aggravating
5 circumstance is what makes this murder
6 different, it's what elevates it to the level
7 where a jury can consider a death sentence.

8 So one of the things -- the first thing
9 that jury has got to determine -- excuse me,
10 two days of talking has taken its toll.

11 Because until and unless the jury
12 determines that an aggravating circumstance
13 exists, I would -- if I am trying that case,
14 that abstract case, I would have told you that
15 you can't return a death sentence. The only
16 sentence that you can impose is life
17 imprisonment without the possibility of parole
18 unless you find, beyond a reasonable doubt,
19 the existence of an aggravating circumstance.

20 To give you an example, and there are
21 a number of them, statute-provided, and
22 certainly I will have given you all that would
23 have applied to that case. But just to give
24 you an illustration: the killing of a police
25 officer, the killing of a child. If that is

1 found beyond a reasonable doubt then the jury
2 has the right -- the right -- to consider
3 death.

4 Please understand something. Just because
5 you find the existence of an aggravating
6 circumstance, my instruction would be that now
7 you have the right to consider it. In other
8 words, you can consider that sentence together
9 with life imprisonment without the possibility
10 of parole and decide which one is the most
11 appropriate. Okay?

12 A. Okay.

13 Q. But I would never tell you that because
14 you found an aggravating circumstance you must
15 bring back a death sentence, because that's
16 always the jury's choice. Do you understand
17 that?

18 A. (Affirmative nod).

19 Q. It is my understanding that you'd have no
20 problem, being a type three juror, following
21 that instruction.

22 A. Yes, sir.

23 Q. Is that correct?

24 A. Yes, sir.

25 Q. That means that there are circumstances in

1 your mind that may warrant you imposing a
2 death sentence and there are circumstances
3 that while you would impose a death sentence
4 you would chose to impose life imprisonment
5 without the possibility of parole. Is that
6 correct?

7 A. Yes.

8 Q. But you don't know which one they are
9 until you've heard it all, is that right?

10 A. (Affirmative nod).

11 Q. Okay. Another part that you might hear,
12 and I would instruct you about it if it should
13 be, is something that the law calls mitigating
14 circumstances. Some of them are defined by
15 statute and some of them are nonstatutory.
16 Mitigating circumstances are those facts and
17 circumstances that would tend to lessen that
18 murder, in other word give you some
19 explanation -- just justification, nothing
20 would justify it but just an explanation for
21 why certain acts were taken; such as,
22 addictions, drug addictions, a person's mental
23 condition that wouldn't amount to insanity but
24 may have affected emotional and mental issues,
25 mental health issues that may have been

1 involved. Uh, -- the upbringing as a child.
2 Those types of things that if they're present
3 they're called mitigating circumstances. So a
4 part of my instructions would tell you that as
5 a jury, if they're present, you must give
6 meaningful consideration, serious, meaningful
7 consideration to those factors if they are
8 present. Would you have any problem following
9 that instruction?

10 A. No, sir.

11 Q. Okay. It doesn't mean that they are
12 controlling, one way or the other. I'm just
13 saying that you would have to consider them
14 and factor all of that into your decision of
15 what the appropriate sentence would be, and
16 you would be willing to do that?

17 A. Yes, sir.

18 Q. I would have also instructed you if I was
19 trying the case that we're talking about here
20 that -- and you would have heard that in the
21 first phase and you'd hear it in the second
22 phase, that persons who are accused of
23 criminal offenses are never required to prove
24 anything. They are not required to present
25 evidence, they have no obligation to prove

1 their innocence. They don't have any
2 obligation to respond at all, because the law
3 says the burden, the only burden, rests on the
4 State. That applies to the first and to the
5 second phase. Do you understand that?

6 A. Yes, sir.

7 Q. Would you have any problem following that
8 instruction?

9 A. No, sir.

10 Q. And that would mean that if there weren't
11 any mitigating circumstances in the record for
12 your consideration, you couldn't hold that
13 against the defendant. Would you honor that,
14 as well?

15 A. Yes, sir.

16 Q. No problem doing that, is ---

17 A. No, sir.

18 Q. --- is that correct?

19 A. Yes, sir.

20 Q. Okay. Now, let's assume that we're at a
21 point now that we've had and considered
22 mitigating circumstances, as you said that you
23 would, and you've heard all the law, and
24 you're at a point now to discuss the sentence.

25 There is one other aspect and, again, it

1 points out the critical need for you to keep
2 that open mind. Further justification for it,
3 should that be necessary. Because a part of
4 my instruction would say to you 'you have the
5 right as a juror, even though you find an
6 aggravating circumstance to impose a life
7 imprisonment without the possibility of parole
8 sentence for no reason whatsoever.'

9 In other words, there may be no mitigating
10 circumstances and you'd still have the right
11 to do it, if you choose to.

12 Any problem following that instruction?

13 A. No, sir.

14 Q. Okay. With all that instruction then and
15 all the facts that you have now heard, all
16 factors that would be important to a juror in
17 making this determination between a life and
18 death, it is my understanding that you believe
19 that you have the ability to apply your common
20 sense, your sense of logic and reasoning in
21 that situation fairly and impartially, analyze
22 the facts, decide what you believe to be the
23 truth and then take the law, as I would have
24 given it to you, and apply it and reach a
25 decision. The decision would be -- could be

1 life imprisonment without the possibility of
2 parole or it could be a death sentence, but
3 you don't know which one until you've heard
4 all the facts. Is that correct?

5 A. Yes, sir.

6 Q. But it could be either of those?

7 A. Yes, sir.

8 Q. Let's focus our attention now for just a
9 few moments with this case. We're moving now
10 from that abstract. On Friday I told you that
11 Mr. Dickerson has been accused of some crimes
12 and we talked about one very important
13 principle of law and I believe that you didn't
14 have any problem with the presumption of
15 innocence. Is that correct?

16 A. (Affirmative nod).

17 Q. That is a very important presumption that
18 applies in this state and every state in the
19 United States, that persons who are accused
20 are presumed innocent. That is an active
21 presumption. That means that we are required
22 under the law to view those persons as
23 innocent.

24 Do you have any problem today, as you look
25 at Mr. Dickerson, thinking that he is innocent

1 of these charges?

2 A. Could I ask you to repeat that?

3 Q. Do you have any problem as you look at Mr.
4 Dickerson, considering him to be totally
5 innocent of these charges?

6 A. No, sir.

7 Q. Okay. And you understand that that has to
8 remain if you were on the jury until the State
9 had presented its evidence and you'd had a
10 chance to consider and you were then firmly --
11 until you were firmly convinced, beyond a
12 reasonable doubt, as to each element of the
13 crime before you can change that position. Do
14 you understand that?

15 A. Yes, sir.

16 Q. I would also instruct you, as I have told
17 you in the abstract case, and in this case if
18 you are sitting, that Mr. Dickerson doesn't
19 have any burdens of proof. He doesn't have to
20 present any evidence, he doesn't have to
21 explain anything or justify anything. I
22 believe that you've already told me that you'd
23 have no problem with that. Is that correct?

24 A. Yes, sir.

25 Q. So you would never hold that against him?

1 A. (Negative gesture).

2 Q. Okay. Based on what you've heard thus
3 far, you've stated that you don't know
4 anything about this dispute, is there anything
5 now that would give you any concern about your
6 ability to sit as a judge with me and, at the
7 appropriate time, fairly and impartially apply
8 your common sense, your sense of logic and
9 reason?

10 A. No, sir.

11 Q. Likewise, you understand that you would be
12 the sole judge of the facts and it would be my
13 responsibility to be the sole judge of the
14 law?

15 A. Yes, sir.

16 Q. And there's nothing that you have heard
17 that would give you any concern about your
18 ability to take the law as I give it to you
19 and apply that law fairly and impartially to
20 those facts. Is that true?

21 A. Yes, sir.

22 Q. And that would be even though you may hear
23 some principle of law that causes you to have
24 to say, 'I don't usually like to do this', but
25 you're willing to set aside your personal

1 feelings in that regard or your personal
2 thoughts about what the law was or should be.
3 You are willing to set all those aside and
4 take the law as I give it to you?

5 A. Yes, sir.

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

9 VOIR DIRE EXAMINATION

10 BY MR. BLOOM:

11 Q. Good morning, Ms. Earheart.

12 A. Hi.

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

18 Let me ask you first, I notice that you
19 work at MUSC?

20 A. (Affirmative nod).

21 Q. I know that's a big place and some
22 witnesses were named on Friday so I want to go
23 over them briefly with you.

24 A. Okay.

25 Q. What department do you work there?

1 A. Biology.

2 Q. Do you know a Dr. Cynthia Schandl who
3 works in Pathology and does autopsies?

4 A. No, sir.

5 Q. Okay. How about a Sandra Fokes? She used
6 to work in Maintenance and Housekeeping and
7 also did some clerical work?

8 A. No, sir.

9 Q. She has gone by past names such as Sandra
10 Jenkins?

11 A. (Negative gesture).

12 Q. Or Sandra Dickerson?

13 A. No, sir.

14 Q. Thank you.

15 A. Um-humm.

16 Q. Another thing that I just wanted to ask
17 you, if we were having a Diet Dr. Pepper or
18 coffee after work and something came on the TV
19 about the death penalty and we got to talking
20 about it, what would your opinion about the
21 death penalty be?

22 A. I think that it would be the same thing as
23 a type three.

24 Q. Okay.

25 A. I believe in it as right in some

1 situations.

2 Q. Okay. Let me ask you next if in the
3 spectrum of things you think it is imposed too
4 often, not often enough, about right? Have
5 you given any thought to that?

6 A. No, sir.

7 Q. Okay, fair enough. Sure. And you
8 understand that there are no right or wrong
9 answers, that were not here to question your
10 opinions, we just kind of need to know. Okay?

11 A. Okay.

12 Q. Now, the next thing that I want to touch
13 on is that Judge Dennis, I believe, defined
14 murder for you. He called it a malice murder,
15 where someone does something mean-spirited or
16 with malice, an evil heart. Just went out and
17 found someone and did it.

18 Some folks feel that once they've found
19 someone guilty of malice murder they don't
20 need to listen to Judge Dennis's instruction
21 or hear anything else in that second phase,
22 they've got their minds made up already. But
23 I take it that you aren't in that group?

24 A. No, sir.

25 Q. If you were in that case you would be able

1 to go to the second phase and hear everything
2 else?

3 A. That's true.

4 Q. Still keep an open mind?

5 A. Yes, sir.

6 Q. All right. Now, -- and you understand
7 that no one is asking you ahead of time for a
8 commitment or how you would vote in this case.

9 A. Right.

10 Q. The next thing that Judge Dennis asked you
11 about and I heard your answers but I just kind
12 of need to ask to make sure, he explained
13 mitigating circumstances to you.

14 Sometimes we get caught in those legal
15 phrases but he gave you some examples of what
16 they are generally -- things such as how a
17 person is raised, their childhood, upbringing,
18 drug addiction, mental health, all sorts of
19 things that may have nothing to do with the
20 crime itself, more to kind of explain how a
21 person got to that point.

22 Some people of a group that, you know, 'I
23 don't want to hear anything about that. I am
24 going to focus on the crime and what happened
25 there.' While it is evidence, 'I don't need

1 to know anything else about what the defendant
2 did or how he was raised.' I take it that
3 you're not in that group.

4 A. No, sir.

5 Q. You'd listen to the evidence.

6 A. Yes, sir.

7 Q. And, as the Judge said, give it meaningful
8 consideration?

9 A. Yes, sir.

10 Q. And that is something that you could
11 weigh, under all circumstances?

12 A. Yes, sir.

13 Q. In that regard, Judge Dennis then told you
14 and I think you clearly understood but I want
15 to make sure that you understood, that the
16 death penalty is never required. Do you
17 remember him saying that?

18 A. Yes, sir.

19 Q. I notice that you have a background in
20 Biology?

21 A. Yes, sir.

22 Q. Science?

23 A. Yes, sir.

24 Q. So you kind of know that if you put one
25 chemical with another chemical, you get -- you

1 know, A-plus-B equals C reaction every time.

2 Right?

3 A. Yes, sir.

4 Q. Judge Dennis explained that is not how
5 this system works. There is never any law or
6 instruction where a jury is required to turn
7 back a death sentence; do you understand that?

8 A. Yes, sir.

9 Q. Once you hear all the evidence and if you
10 find certain circumstances that the judge
11 explains, it is totally your decision. Do
12 you understand that?

13 A. Yes, sir.

14 Q. The law calls that individualized,
15 reasoned moral judgment. Can you accept that?

16 A. (Affirmative nod).

17 Q. And you will hear all the evidence, listen
18 to the judge's instructions and after you
19 debate with other jurors and discuss,
20 listening back and forth, you could come to
21 your own individualized, reasoned moral
22 judgment?

23 A. Yes, sir.

24 Q. The next thing that I want to ask you is,
25 once all that has happened -- you've heard all

1 the evidence, Judge Dennis' instruction,
2 debates and discussed with the other jurors
3 and you've come to your own individualized,
4 reasoned moral judgment, if eleven jurors are
5 going one way and you make your decision
6 another, you've not just going to give up your
7 vote because it's late, you want to go home,
8 dinner's on the table. You can stand by your
9 own individualized, reasoned moral judgment?

10 A. Yes, sir.

11 Q. And you would want the other jurors to
12 respect your vote?

13 A. Yes, sir.

14 Q. And you would respect theirs?

15 A. Yes, sir.

16 MR. BLOOM: Thank you very much, I
17 have no further questions.

18 THE COURT: Thank you, Mr. Bloom.
19 Mr. Durant?

20 BRUCE DURANT: Thank you, Your
21 Honor.

22 VOIR DIRE EXAMINATION

23 BY BRUCE DURANT:

24 Q. Good morning, Ms. Earheart. My name is
25 Bruce Durant, I'm the Deputy Solicitor. This

1 is the Solicitor, Scarlet Wilson. This is
2 Rutledge Durant. We will be handling this
3 case on behalf of the State of South Carolina.

4 I will be very brief. I just have a
5 couple of questions. I have a good friend
6 that is a PA, named Becky Miller, would you
7 know her by any chance?

8 A. I've heard the name.

9 Q. But you don't know her?

10 A. I don't know her.

11 Q. You don't think that would have any affect
12 on your ability to serve as a juror?

13 A. No, sir.

14 Q. Okay. I notice in your questionnaire that
15 you have a lot of family members that are
16 pastors. Do you believe that would have any
17 impact on your ability to be a fair and
18 impartial juror in this case?

19 A. No, sir.

20 Q. You don't believe that there would be any
21 family pressure or anything like that?

22 A. No, sir.

23 Q. Okay. And I think I probably know the
24 answer to this question but, you know, you
25 have people that are against the death penalty

1 under any circumstances and then people that
2 are for the death penalty in all
3 circumstances. Where do you kind of fall in
4 that spectrum?

5 A. I don't know if I am really on either
6 side.

7 Q. So ---

8 A. I guess in the middle.

9 Q. --- you're kind of in the middle?

10 A. Yes, sir.

11 Q. Okay. If it came down to it and you and
12 the jury deliberated in accordance with the
13 judge's instructions and determined that a
14 death sentence might be appropriate, could you
15 sign the name to the form requiring someone to
16 be put to death?

17 A. You're saying if I ---

18 Q. Not you but could -- could you sign a
19 verdict form, along with the other eleven
20 jurors, requiring that someone be put to
21 death?

22 A. Yes, sir.

23 BRUCE DURANT: I have no further
24 questions. Thank you.

25 THE COURT: Anything else, Mr.

1 Bloom?

2 MR. BLOOM: No, sir.

3 THE COURT: Thank you very much,
4 Ms. Earheart. If you would, step out just for
5 a moment, please.

6 (JUROR NUMBER 8 EXITS COURTROOM)

7 THE COURT: I find Ms. Earheart to
8 be qualified. Any objection, Mr. Durant?

9 BRUCE DURANT: No, sir.

10 THE COURT: Any objection, Mr.

11 Bloom?

12 MR. BLOOM: No, sir.

13 THE COURT: Ask her to step in,
14 please.

15 (JUROR NUMBER 8 ENTERS COURTROOM)

16 THE COURT: Thank you. Thank you
17 very much, and I appreciate your patience.
18 You've been found to be qualified to be a
19 member of the panel from which we will select
20 our jury.

21 That will take place tomorrow morning
22 at 9:30. When you come tomorrow, if you will
23 come and just take a seat in the audience and
24 we'll start that process, hopefully about
25 9:30. You need to be prepared to stay, if

1 need be because we'll start the trial at that
2 time after the jury is selected.

3 Until then and until you have been
4 dismissed from this case, please remember that
5 you still are not at liberty to discuss this
6 case with anyone or permit anyone to talk with
7 you about it. Also, please continue not to
8 watch any news programs about it or read any
9 news accounts. Have a great day and we'll see
10 in the morning.

11 JUROR NUMBER 8: Be here at 9:30?

12 THE COURT: Here at 9:30. Just
13 come directly to this courtroom. Thank you.

14 (JUROR NUMBER 8 EXITS COURTROOM)

15 THE COURT: Juror Number 50,
16 please. Mr. Clapp.

17 (JUROR NUMBER 50 ENTERS COURTROOM)

18 THE COURT: Good morning.

19 MR. CLAPP: Good morning. How are
20 you?

21 THE COURT: Very well. Thank you,
22 sir. Appreciate it.

23 Mr. Clapp, we are going to continue
24 the process that we started on Friday. I am
25 going to have some questions that I need to

1 ask of you and the attorneys probably will
2 have some, too.

3 As you probably noted on Friday and
4 recall, there really are no correct answers to
5 any of these questions. They are really just
6 designed to help you and to help us make a
7 determination as to whether you can be a fair
8 and impartial judge in this matter. Okay?

9 JUROR NUMBER 50: Yes, sir.

10 THE COURT: All that we ask, sir,
11 is that you give a truthful response, a
12 complete response and a candid response. Will
13 you do that, sir?

14 JUROR NUMBER 50: Yes, I will.

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

18 JUROR NUMBER 50: Yes, sir.

19 RICHARD CLAPP, being duly sworn to
20 tell the truth, the whole truth and nothing
21 but the truth, testified, as follows:

22 VOIR DIRE EXAMINATION

23 BY THE COURT:

24 Q. Since we were together on Friday, have you
25 talked with anyone about this case or

1 permitted anyone to talk with you about it or
2 to talk about it in your presence?

3 A. Only to the extent that I am on-call and I
4 need to have arrangements made to take care of
5 things.

6 Q. But no one has talked to you about the
7 case itself?

8 A. No.

9 Q. Just the mechanics of being a member of a
10 jury?

11 A. Correct.

12 Q. Some of the logistical problems?

13 A. Correct.

14 Q. And you haven't read any newspaper
15 accounts or watched any news programs, have
16 you?

17 A. I watched them but I didn't see anything
18 on the case. No.

19 Q. If they came on, you turned them off or
20 you -- you didn't see any?

21 A. (Negative gesture), I did not.

22 Q. Very good. Do you recall that I gave you
23 the names of a number of individuals on
24 Friday?

25 A. Yes, sir.

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

7 A. No, neither.

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

12 A. I did.

13 Q. Which type most accurately describes you?

14 A. Type two.

15 Q. Type two?

16 A. Yes.

17 Q. Type two is basically, to set the stage,
18 that juror -- those jurors who are involved,
19 obviously, in a case in which they are to
20 determine the appropriate sentence for a
21 person convicted of murder. They would have
22 already gone through the first phase and found
23 that the person the State had accused was that
24 person. Do you understand that?

25 A. Yes, I do.

1 Q. The point of the sheet, they've not
2 entered yet the second phase where they are
3 going to hear additional evidence about the
4 appropriate sentence to be imposed. Do you
5 understand that?

6 A. Yes, I do.

7 Q. It is my understanding that as a type two
8 juror that you as that type of juror could go
9 through the entire phase of the second phase,
10 where you could receive evidence about -- that
11 would be pertinent to that sentence, including
12 aggravating circumstances, which are important
13 because a juror in this state cannot even
14 consider a death sentence unless aggravating
15 circumstances are established beyond a
16 reasonable doubt, because the only sentence
17 that can be applied is life without parole
18 unless that is present. That's one aspect
19 that you would hear in that second phase.

20 It is my understanding that if you were on
21 that jury panel and you heard, and the jury
22 concluded, that that aggravating circumstance
23 had been established and you had heard all the
24 other evidence that was pertinent to that
25 decision, you, and your strong beliefs, would

1 prevent you from -- while the judge would tell
2 you that you could consider it and that you
3 didn't have to bring it back, you wouldn't
4 have to return a death sentence, but it is my
5 understanding that, listening to all the
6 evidence in that case, there is no set of
7 circumstances in which you could be a juror
8 where you would vote to impose a death
9 sentence?

10 A. Personally, that's correct.

11 Q. Now, I appreciate that. That's a very
12 legitimate and understandable position. You
13 said personally that would be correct. My
14 question to you is this, because one of the
15 things that a jury has to do is they have to
16 say, 'Judge, first of all I have an open mind
17 about this, I know nothing about it, there is
18 nothing about this case that would cause me to
19 predetermine anything, so I am willing to be a
20 fair and impartial juror in analyzing the
21 facts and decide the true -- applying my
22 common sense, my sense of logic and reason.'

23 The second part is, because your oath says
24 "consistent with the facts" or with "the
25 evidence and the law." The evidence of course

1 consists of testimony of witnesses and
2 exhibits and that is how you would consider
3 that.

4 The law, you have nothing to do with.
5 What the law says is that you have to make a
6 commitment that you would set aside your
7 personal beliefs, your philosophies and even
8 -- even your concepts and ideas of the law and
9 take the law as the court gave it to you and
10 apply it fairly and impartially. My question
11 is, are you telling me that notwithstanding
12 that I would instruct you that you have to
13 consider that, if you get to that point, that
14 in fairness you have to give consideration to
15 that and you have to be able to do it, if
16 necessary.

17 Are your personal beliefs so strong that
18 you could not set those aside and participate
19 in sentencing someone to death, notwithstand-
20 ing my instruction that you would have to do
21 that?

22 A. It would be difficult.

23 Q. Well, I appreciate that.

24 A. No, I could not.

25 Q. You could not?

1 A. I could not vote for death.

2 Q. That's the ultimate question. Let me say
3 something to you, as I said, nobody is going
4 to challenge your beliefs. You are entitled
5 to them.

6 I just need to know whether it's something
7 that you believe that you could
8 conscientiously do and still live with
9 yourself, so to speak?

10 Some people may be able to, some people
11 may not be able to. That's not a criticism of
12 you or a criticism of them. That's just
13 simply an observation.

14 As I understand what you're telling me,
15 that's not something that you could do?

16 A. That's correct.

17 Q. Under any circumstance?

18 A. I -- no.

19 Q. Okay.

20 THE COURT: Any questions from the
21 State?

22 VOIR DIRE EXAMINATION

23 BY BRUCE DURANT:

24 Q. Good morning, Mr. Clapp. My name is Bruce
25 Durant, I am the Deputy Solicitor. This is

1 Scarlet Wilson, the Solicitor, and Rutledge
2 Durant. We will be handling this case.

3 I am going to be very brief because I
4 think I know what your answer is. My question
5 is simply this, you could not impose the death
6 penalty under any circumstances where life
7 imprisonment without the possibility of parole
8 is on the table, as well. Is that correct?

9 A. Say that again?

10 Q. You could never impose a death penalty in
11 any case where there was also an option to
12 impose a sentence of life imprisonment without
13 the possibility of parole?

14 A. Yes, that's correct.

15 Q. Would that truly state your belief?

16 A. That's correct. I could not impose the
17 death penalty ---

18 Q. No matter the circumstance?

19 A. No.

20 Q. You could never do it?

21 A. No.

22 Q. Is that a moral decision on your part?

23 A. Yes, it is.

24 Q. And it would make no difference what the
25 judge's instruction are, is that correct?

1 A. That's correct.

2 BRUCE DURANT: Thank you, I have
3 nothing further.

4 MR. BLOOM: I just have one
5 question.

6 THE COURT: Yes, sir.

7 VOIR DIRE EXAMINATION

8 BY MR. BLOOM:

9 Q. Mr. Clapp, in part is your belief based on
10 your religious faith and your religious
11 beliefs?

12 A. Yes, it is.

13 MR. BLOOM: Thank you, sir.

14 THE COURT: I have one followup
15 because I note on your form that you filled
16 out that you said that you were in favor of
17 it, and you're just saying that from your
18 perspective as a citizen you believe the death
19 penalty is -- what? Is okay?

20 JUROR NUMBER 50: I believe -- I
21 don't have any problem with somebody else
22 physically putting their vote in to get it
23 done under certain circumstances, I just
24 personally ---

25 THE COURT: Can't participate?

1 JUROR NUMBER 50: (Negative gesture).

2 I can't.

3 THE COURT: Thank you very much,
4 Mr. Clapp. I am going to excuse you from
5 further participation in this dispute. I
6 thank you for your candor, I thank you for
7 your being involved in the process. I wish
8 you well. You are now -- you don't have to
9 report any more this week. That concludes
10 your services, sir. Good luck to you, sir.

11 JUROR NUMBER 50: Thank you very much
12 and to you all as well.

13 THE COURT: Thank you.

14 (JUROR NUMBER 50 EXITS COURTROOM)

15 THE COURT: Any objection from the
16 State to my disqualifying the juror?

17 BRUCE DURANT: No, sir.

18 THE COURT: I'll be happy to hear
19 from you.

20 MR. BLOOM: Ours would only be
21 under the First, Eighth and Fourteenth
22 Amendments, as with the others, as to
23 religious belief.

24 THE COURT: Thank you. Of course,
25 the rationale and my reasoning for doing so is

1 because his beliefs and view, given clearly
2 and stated clearly, would impair his
3 performance as a juror and that he could not
4 follow the court's instructions fully. Those
5 beliefs would interfere with that. Thank you
6 so much. Thank you so much.

7 Let's bring in Juror Number 262, Mr.
8 Salmonsens.

9 MR. BLOOM: Judge, if I may, he
10 listed a medical. If you would inquire about
11 that?

12 THE COURT: I am going to -- but,
13 first, any objection to my excusing him?

14 MR. BLOOM: He approached you
15 during general qualification and I would just
16 feel more comfortable about your inquiring
17 into his medical.

18 THE COURT: I will. I will do
19 that. No problem.

20 MR. BLOOM: Thank you.

21 THE COURT: Did he ---

22 COURT REPORTER: Yes, sir, he said
23 he was diabetic.

24 THE COURT: Right, that he has to
25 go to the bathroom frequently. My note says

1 that the medication wears off in the after-
2 noon.

3 (JUROR NUMBER 262 ENTERS COURTROOM)

4 THE COURT: Good morning, Mr.
5 Salmonsens. How are you, sir?

6 JUROR NUMBER 262: Fine, sir.

7 THE COURT: Good.

8 THE COURT: Thank you for coming
9 today. I appreciate it. Need to ask -- we
10 are going to continue the process that we
11 started on Friday. There are some questions
12 that I need to ask of you, the attorneys need
13 to ask of you. There are no correct answers
14 to any of these questions. We just need you
15 to be truthful and candid in your responses.

16 Please understand and know that you're not
17 -- that your personal beliefs and
18 philosophies, we're not here to challenge
19 those. You are entitled to those. Please do
20 not feel that you have to defend them and
21 don't feel that anybody is trying to change
22 your mind about anything because that's the
23 purpose of this. Because there aren't any
24 correct answers.

25 So can we trust you to be candid and

1 truthful in responding? Will you do that?

2 JUROR NUMBER 262: Yes, sir.

3 THE COURT: I remind you that
4 you're still under oath in this matter.

5 JUROR NUMBER 262: Yes, sir.

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

9 VOIR DIRE EXAMINATION

10 BY THE COURT:

11 Q. Before I start asking you questions, I
12 want to revisit something and I -- in looking
13 at your form, and you share something with me
14 on Friday, you have a condition, a medical
15 condition, and your medication ---

16 A. I take diuretics, which causes me to go to
17 the bathroom every four or five minutes during
18 the mornings.

19 Q. Do you believe that would affect you and
20 impair your service as a juror?

21 A. Well, it's according to how long it takes.

22 Q. Well, my question is -- what I read is
23 that it's every fifteen to twenty minutes?

24 A. Well, it's more like forty-five minutes
25 but, still, -- (pause).

1 Q. So you would have to stop the process
2 between thirty and forty-five minutes ---

3 A. Yeah, I have to go. It flushes my kidneys
4 out and ---

5 Q. Oh, I understand the purpose of it because
6 I've taken them myself and I -- I ---

7 A. You know what I'm talking about then?

8 Q. Oh, absolutely. I am going to ask you to
9 step out for just a moment. We have to
10 discuss these things out of your presence. I
11 will be with you in just a second.

12 (JUROR NUMBER 262 EXITS COURTROOM)

13 THE COURT: I am not going to put
14 that man through that, folks. I don't know
15 about you all but when I'm sitting here,
16 waiting, I know that my focus is affected from
17 time to time. I understand and -- I don't
18 think that it's something where he's trying to
19 avoid serving. Any objection from the State?

20 SOLICITOR WILSON: No, sir.

21 BRUCE DURANT: I'm getting a
22 little out of focus right now.

23 THE COURT: I understand. Any
24 objection, Mr. Bloom?

25 MR. BLOOM: No, sir.

1 THE COURT: Thank you, let's have
2 him come back in.

3 (JUROR NUMBER 262 ENTERS COURTROOM)

4 THE COURT: Mr. Salmonsens, thank
5 you very much. You've been most cooperative
6 and I thank you for your willingness to be a
7 part of this process. I am going to take that
8 and think that would really affect you.

9 JUROR NUMBER 262: Yea, I'd have to
10 raise my hand about every ---

11 THE COURT: I understand that. We
12 could accommodate that but the problem that I
13 have is that I think, just as a human being
14 once you start that process it has a tendency
15 -- your focus is somewhat affected by that.
16 To avoid any problems along those lines, you
17 would wish to be excused?

18 JUROR NUMBER 262: Yes, sir.

19 THE COURT: Very well, you are
20 excused. Have a great day.

21 (JUROR NUMBER 262 EXITS COURTROOM)

22 THE COURT: Folks, let's take about
23 five minutes, ten minutes. Thank you.

24 (BRIEF RECESS)

25 (DEFENDANT PRESENT)

1 THE COURT: Let the record reflect
2 that Mr. Dickerson is present. Invite Ms.
3 Ancrum to join us, Juror Number 4.

4 (JUROR NUMBER 4 ENTERS COURTROOM)

5 THE COURT: Good morning, Ms.
6 Ancrum.

7 JUROR NUMBER 4: Good morning.

8 THE COURT: How are you, ma'am?

9 JUROR NUMBER 4: Good, and you?

10 THE COURT: Fine, ma'am. If you
11 will sit and pull yourself up so that you can
12 speak into that mic comfortably.

13 We are going to continue that process
14 that we started on Friday in that we have some
15 questions that we may have for you this
16 morning. I have some and the attorneys may
17 have some questions, as well.

18 Just as you have already heard me
19 say, there really are no correct answers to
20 any of these questions. They are just
21 designed to help you and to help us make a
22 decision whether you would be a fair and
23 impartial juror in this case. Okay?

24 JUROR NUMBER 4: Okay.

25 THE COURT: We want you to

1 understand that no one is here to challenge
2 any beliefs or philosophies that you have, nor
3 are we trying to change your mind about
4 something, nor are we trying to invade any
5 privacy -- any private issues.

6 Again, we just simply ask that you
7 answer the questions truthfully and candidly.
8 Will you do that?

9 JUROR NUMBER 4: Yes, sir.

10 THE COURT: I would remind you in
11 that regard that you are still under oath in
12 this matter. Okay?

13 JUROR NUMBER 4: Yes, sir.

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

17 VOIR DIRE EXAMINATION

18 BY THE COURT:

19 Q. Ms. Ancrum, when we were last together on
20 Friday, have you talked with anyone or
21 permitted anyone to talk with you about this
22 case?

23 A. No, sir.

24 Q. Have you read anything about it or watched
25 any news programs about it?

1 A. No, sir.

2 Q. On Friday I listed a number of persons and
3 asked you whether you had any relationship to
4 any of those persons. I failed to mention two
5 names that I need to ask you about. Are you
6 related by blood or marriage, have any
7 business dealings with or socially or casually
8 acquainted with or have any dealings with
9 either Jeff Osborne or Matt Casey?

10 A. No, sir.

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

14 A. Yes, sir.

15 Q. Of the three types of jurors, which type
16 most accurately describes you?

17 A. Number three.

18 Q. Number three -- and, obviously, -- let me
19 tell you a little bit, and you've obviously
20 already figured it out, but obviously the
21 jurors on that sheet are dealing with a case
22 in which murder was the charge. It's a case
23 in which that jury is going to be involved in
24 sentencing that particular person. Do you
25 understand that?

1 A. Yes, sir.

2 Q. You -- if you were on the jury, you would
3 have already at the point of the questioning,
4 you would have been through that first phase
5 where you heard all the evidence about who did
6 it. Okay?

7 A. (Affirmative nod).

8 Q. And you would have -- you and the other
9 jurors would have concluded that the person
10 that the State had accused was that person.
11 That's one thing that has been established, no
12 question about it, beyond a reasonable doubt,
13 they got the right person.

14 Secondly you would have concluded that
15 this killing was murder, not -- in this state
16 we don't have -- in this state, unlike some
17 states where degrees may occur -- murder in
18 the first degree, second, we don't have that.
19 In this state it is murder. The lesser
20 offenses of killing someone in this state are
21 called manslaughter and involuntary
22 manslaughter. Those are the two others that
23 would deal with a killing in a murder
24 situation.

25 So you've ruled out any of those.

1 This is one where the person intended to kill
2 someone, they did it with malice -- meaning
3 that they were motivated by an evil spirit,
4 bad feelings, just wrong, all the wrong
5 reasons, no rationale for doing it, no
6 justification for doing, no self-defense, not
7 an accident, not a mistake, none of those
8 things. It was murder. Okay?

9 A. Okay.

10 Q. And I understand now that if you're on
11 that jury -- and let me talk just a moment
12 about being a juror, in general, in that
13 setting and in this setting.

14 If you are on this jury, you'll hear this
15 again. Jurors are judges, number one, as I
16 told you when I qualified you. They have a
17 very important function. They are the ones
18 that become the judge of the facts. I think
19 that there are two very important
20 characteristics of jurors that makes them
21 really good.

22 Number one is that they are willing to
23 apply their common sense, their sense of logic
24 and reasoning fairly and impartially. That
25 requires them to set aside all human emotions

1 and be very methodical about analyzing
2 evidence.

3 Number two, they have to start the process
4 with an open mind. They have to make a
5 commitment and as part of that commitment when
6 they say that they are going to make the
7 decision based on the evidence and the law,
8 that's part of the oath that you would take as
9 a juror. You would take it in this case, what
10 we're calling this abstract case. Do you
11 understand that?

12 A. Yes, sir.

13 Q. Part of your instructions from the court
14 would be that you can't change that position,
15 that open mind, until the court tells you to
16 begin your deliberations. Okay? That's
17 important.

18 Now, once you're instructed to begin your
19 deliberations, you're expected to then apply
20 your common sense, analyzing the evidence.

21 Then once you decide the true facts from
22 the evidence, you take the law as the court
23 gave it to you. That's important, too.
24 That's another part. You don't have anything
25 to do with the law because yours is to

1 determine the facts.

2 But you promise to take the law and set
3 aside all of your personal feelings about the
4 law or your philosophies that may differ with
5 the law. You say, 'I may not agree with that,
6 that might not be something that I would
7 normally do' but because I am on this jury and
8 the law tells me that I have to do this, that
9 I must do this, I will do this. I will not be
10 influenced by my personal feelings.' Okay?

11 A. Yes, sir.

12 Q. So at this point you're that type of
13 juror. You would have an open mind about the
14 charge and now the judge has instructed you
15 and you've determined 'Did the State charge
16 the right person?' And, you'd said 'yes
17 by your verdict, that they were guilty.

18 Now we're moving into that second phase.
19 As I understand -- obviously types one and
20 two, they speak for themselves, they don't
21 have that open mind. Do they?

22 A. No, sir.

23 Q. Because they have already have a
24 predetermination of 'now, we've convicted them
25 and this is the punishment that we think is

1 most appropriate.'

2 But as I understand you, the second phase
3 is where you are going to hear the evidence
4 and you don't have an opinion at this point
5 what the appropriate sentence is for this
6 person. Is that correct?

7 A. Correct.

8 Q. That's very important.

9 A. (Affirmative nod).

10 Q. It's important for the whole principle of
11 being a juror, but it's important also because
12 in this state normally in a murder the jury is
13 not involved in the sentencing. Normally the
14 jury determines whether the State has made the
15 charge correctly. In other words, did they
16 prove their charge beyond a reasonable doubt.
17 But if the jury returns a guilty verdict, as
18 they would have in that abstract case, the
19 judge would be imposing the sentence.

20 But the judge in a normal situation in a
21 murder cannot, can never impose the death
22 sentence. The maximum that the court could
23 impose is life imprisonment without the
24 possibility of parole. Do you understand
25 that?

1 A. Okay.

2 Q. But our law says that if there are certain
3 circumstances that the State proves existed at
4 the time that this murder was committed, then
5 in those limited situations the death sentence
6 may be an option. Okay?

7 A. (Affirmative nod).

8 Q. But those have to be established to exist.
9 So it's very important that you have an open
10 mind, because one of the things that you're
11 going to have to determine in that first phase
12 -- it is a factor to be considered in the
13 sentencing, obviously, because it is something
14 that makes -- it makes the murder more severe.

15 Let me give you some examples. There are
16 a number of them that the law sets forth very
17 specifically, but just so that you understand,
18 maybe the case involving, that abstract case,
19 the killing of a police officer or the killing
20 of a child. The law says that if the State
21 proves that in the second phase, beyond a
22 reasonable doubt, then you're entitled to
23 consider a death sentence.

24 But if they don't -- in other words, if
25 that circumstance isn't established, then the

1 only sentence that the jury can bring down is
2 life imprisonment without the possibility of
3 parole.

4 Why? Because they've got to prove that
5 aggravating circumstance to get it to that
6 level. So you can see that's another very
7 important reason because you can't even think
8 about a death sentence until that has been
9 established beyond a reasonable doubt.

10 Do you understand that?

11 A. Yes, sir.

12 Q. Okay. You would have no problem with
13 that, is that correct?

14 A. (Affirmative nod): No, sir.

15 Q. And you would be able to consider the
16 evidence and make a determination, apply your
17 common sense and make a determination whether
18 the State had convinced you of at least one
19 aggravating circumstance?

20 A. Yes, sir.

21 Q. I would further instruct you in that
22 regard that if the State does prove that, then
23 and only then would the jury have the second
24 option on the table, so to speak. In other
25 words, now you've had to pick whether you were

1 going to impose a life imprisonment without
2 the possibility of parole or a death sentence,
3 because you would have that right because of
4 the existence of that aggravating
5 circumstance. Do you understand that?

6 A. Yes, sir.

7 Q. It is my understand that generally, as a
8 type three juror, and I am not asking you
9 which ones but there are circumstances in your
10 mind that are severe enough that would warrant
11 the imposition of a death sentence; correct?

12 A. Yes, sir, depending on the circumstances.

13 Q. Correct, it's based on the circumstances.

14 A. (Affirmative nod).

15 Q. But there are also circumstances that may
16 be in your mind that while you may have the
17 option to impose a death sentence your choice
18 would be 'no, I think the most appropriate
19 sentence in this setting would be life
20 imprisonment without the possibility of
21 parole.' Is that correct?

22 A. That's correct.

23 Q. That's very important -- and you could
24 consider, and would consider, and weigh all
25 the evidence and decide which one you believe

1 to be the most appropriate in a particular
2 case; is that correct?

3 A. That's correct.

4 Q. That's important, too, because again
5 that's part of the -- that's what the law
6 requires you to do, but also there are other
7 aspects of this second phase. You're going to
8 hear evidence about aggravating circumstances,
9 you'll hear some other evidence from the State
10 about -- that you may want to consider and
11 would consider and weigh in determining the
12 sentence involving the person accused of the
13 crime. But you also would be instructed if
14 there are any mitigating circumstances in the
15 evidence that you would have to give
16 consideration to that, meaningful
17 consideration -- that's not just to say 'Okay,
18 I've looked at it.' You have to think about
19 it and weigh those mitigating circumstances
20 before deciding what you believe to be a fair
21 sentence. Those things -- some of them are
22 provided by law, some of them are nonstatutory
23 but -- such as the person's age, the person's
24 upbringing, what happened -- some things that
25 may have happened in their childhood that

1 could have affected or could be an explanation
2 -- not a justification, obviously, or any
3 excuse for it but just by way of explanation
4 that would be would be helpful in determining
5 and weighing between the two. Addiction is
6 another. That type of thing. There are a
7 number of them that the court would give you.

8 From what you've said, it's my
9 understanding that if those are present that
10 you would be able to give meaningful
11 consideration to those as well before you'd
12 determine a sentence?

13 A. Oh, yes, sir.

14 Q. And that's important because you should do
15 that.

16 A. Yes, sir.

17 Q. In all criminal disputes, as I told you on
18 Friday, people accused don't have to prove
19 anything. They don't have to prove their
20 innocence. Do you understand that?

21 A. Yes, sir.

22 Q. In fact, they don't even have to present
23 any evidence if they don't want to. That's up
24 to -- that's up to them. Of course, the court
25 would instruct you that you can't use that

1 against them. That would be either in the
2 first or the second phase in that abstract
3 case. Would you have any problem following
4 that instruction?

5 A. No, sir.

6 Q. So if there weren't any mitigating
7 circumstances in evidence for you to consider,
8 you couldn't use that against the defendant
9 and you would not do that, would you?

10 A. No, sir.

11 Q. And that's important, too, Ms. Ancrum,
12 because another part of the instruction would
13 say, in addition to all the things that I've
14 told you while you could consider -- and,
15 please, understand that the court would never
16 tell you that you have to return the death
17 penalty. It would tell you that if
18 aggravating circumstance are present that you
19 may consider it; and you may do it if you
20 choose to do it, but you don't have to. It's
21 up to you, in other words.

22 A. (Affirmative nod).

23 Q. You'd have to weigh it all and decide
24 which one is the best. Would you have any
25 problem following that?

1 A. No, sir.

2 Q. It would further say that even you as a
3 juror have the right to return a life
4 sentence, even though you could impose a death
5 sentence, for no reason at all if you choose
6 to. Do you understand that?

7 A. Yes, sir.

8 Q. And you could consider that, as well?

9 A. (Affirmative nod).

10 Q. Is that right?

11 A. Yes, sir. That's right.

12 Q. And, again, none of those things are
13 controlling you or telling you what you have
14 to do but merely are matters that you would
15 have to consider in making that ultimate
16 determination. Do you understand that?

17 A. I understand that.

18 Q. And you could do that -- consider it all
19 and ultimately make that decision, in your
20 opinion?

21 A. Yes, sir.

22 Q. And you could be fair and impartial in
23 performing that task?

24 A. Yes, sir.

25 Q. Let's look for a moment in this case.

1 We will leave the abstract now and move on.

2 Okay?

3 A. Okay.

4 Q. You mentioned that you didn't have any
5 problem with the principle of law that I told
6 you about, that persons who are accused of
7 committing criminal offenses are presumed
8 innocent. You believe in that principle of
9 law, is that correct?

10 A. Yes, sir.

11 Q. As I mentioned, that is an active
12 presumption. That means that we have to --
13 people that are accused, we have to actively
14 presume that they are innocent. That has to
15 remain until the State presents evidence, if
16 you were on a jury, beyond a reasonable doubt
17 that would cause you to change your mind. Do
18 you understand that?

19 A. Yes, sir.

20 Q. But until then you have to see the person
21 as innocent, do you understand that?

22 A. Yes, sir.

23 Q. Do you have any problem today as Mr.
24 Dickerson sits here? Do you believe that he
25 is innocent of these charges?

1 A. Innocent until proven guilty.

2 Q. Proven otherwise?

3 A. (Affirmative nod), otherwise.

4 Q. Until you as a jury have deliberated and
5 you're convinced beyond a reasonable doubt as
6 to each element of those charges?

7 A. The evidence, yes, sir.

8 Q. And you believe, based on what you've
9 heard, that there would be nothing in this
10 case that would prevent you at the appropriate
11 time -- in other words, starting with an open
12 mind, keeping an open mind and not changing
13 that position until you were instructed to
14 begin your deliberations, but you believe that
15 based on what you've heard that you would be
16 able to sit, listen to the evidence, consider
17 the evidence, evaluate that evidence, decide
18 the true facts and then take the law as I gave
19 it to you and apply it fairly and impartially
20 to the facts, so that your decision would be
21 fair to both sides?

22 A. Yes, sir.

23 THE COURT: Thank you, ma'am.

24 Please answer any questions that the attorneys
25 may have. Mr. Bloom?

1 VOIR DIRE EXAMINATION

2 BY MR. BLOOM:

3 Q. Good morning, Ms. Ancrum. My name is Jeff
4 Bloom and along with Andrew Carroll, who is
5 attending to other duties in the case right
6 now, we represent William Dickerson. I just
7 have a few followup questions from what Judge
8 Dennis asked you. Okay?

9 A. Okay.

10 Q. If we had met after work, knew each other
11 and we were just kind of chatting, having a
12 Diet Dr. Pepper or a coffee and something came
13 on the TV news about the death penalty and
14 that topic came up and I just turned to you
15 and said, 'What do you think of that', what's
16 your -- what is your general thought of the
17 death penalty?

18 A. I think I need to get up and be excused --
19 (laughs). Do you mean if someone asked me
20 that afterwards or before we ---

21 Q. I am not talking about this case. I am
22 just talking about the general topic of the
23 death penalty.

24 A. Okay.

25 THE COURT: Ms. Ancrum, that's

1 probably one of the most astute responses that
2 I've heard in three days. That was very good.

3 EXAMINATION CONTINUED

4 BY MR. BLOOM:

5 Q. I am just talking in general, not this case
6 but just in general, just to kind of generate
7 the topic of the death penalty in general.
8 What would your opinion be?

9 A. If I hear it on the News?

10 Q. Just your opinion about the death penalty
11 in general?

12 A. I'm not there until -- based on the
13 accusation, I'd have to hear the case and I'd
14 have to agree with what all the jurors decide
15 because I am not the only one to, uh, hear all
16 the evidence.

17 Q. So you would look at it on a case by case
18 basis?

19 A. Case by case, (affirmative nod).

20 Q. You don't have an opinion either -- you
21 know, some ---

22 A. No, sir.

23 Q. --- folks are for the death penalty in
24 every case. That's not you?

25 A. No, sir.

1 Q. And some folks are for life without parole
2 in every case?

3 A. No, sir.

4 Q. I think Judge Dennis explained to you a
5 lot about the second phase where a jury
6 decides the punishment, life without parole or
7 the death sentence. You understand that
8 before the jury ever gets there that they've
9 already found a person guilty of that malice
10 murder -- someone did it, meant to do it, with
11 malice, meanness, an evil spirit, they got the
12 right person beyond a reasonable doubt, not
13 accident, not self-defense, not manslaughter
14 where you catch someone in bed, it's not
15 insanity.

16 You've got someone convicted of a malice
17 murder and that's what we are talking about
18 when we decide between the ultimate punishment
19 of life without parole and the death sentence.

20 I take it from your answers to me, as well
21 as to Judge Dennis, that you're not one of
22 those folks that even if you found someone
23 guilty of that malice murder -- that mean
24 killing -- that you're automatically going to
25 vote for the death sentence.

1 A. No, sir.

2 Q. Okay. You are still going to want to ---

3 A. I'm still going to wait.

4 Q. Okay. Good. I just want to talk next --

5 briefly, Judge Dennis talked to you about

6 mitigating circumstances. That's a fancy

7 legal phrase. Let me give you some examples.

8 Oftentimes in that phase --- of course the

9 jury hears about the crime itself, you

10 understand that?

11 A. (Affirmative nod).

12 Q. Then they hear more information, bad

13 information about stuff, maybe good

14 information and they may hear information that

15 has nothing to do with the crime. I think

16 Judge Dennis gave you some examples -- such as

17 how a person is raised, their childhood, their

18 upbringing, possible drug addictions, mental

19 health issues, and those are all things that

20 you could listen to?

21 A. (Affirmative nod).

22 Q. Those types of issues, right?

23 A. Yes, sir.

24 Q. Because you understand that some people

25 say, 'You know what? I don't want to hear

1 about how someone was raised or all that other
2 stuff.' But that is something that you can
3 listen to and ---

4 A. Yeah, I could listen to it.

5 Q. --- give meaningful consideration to it?

6 A. Oh, yes, sir.

7 Q. You can see why that would be important
8 for a jury to ---

9 A. Important. Yes, sir.

10 Q. --- consider in deciding the ultimate kind
11 of punishment, or life without parole?

12 A. Yes, sir.

13 Q. And I think you clearly understood but
14 again I have to ask. Judge Dennis instructed
15 you that the death penalty is never required.

16 Do you understand that?

17 A. Correct.

18 Q. That if once you've heard all the evidence
19 and the circumstances, both mitigating
20 circumstances and aggravating circumstances,
21 and you've followed the judge's instruction on
22 the law, it is totally up to you whether you
23 pick the ultimate punishment or life without
24 parole. Do you understand that?

25 A. I do.

1 Q. The law never tells you that you've got to
2 pick one?

3 A. Yes, sir.

4 Q. And what the law calls that is your own
5 individualized, reasoned moral judgment. Can
6 you accept that?

7 A. Yes, sir.

8 Q. After you had heard all the evidence, and
9 you'd listened and followed Judge Dennis'
10 instructions on the law, you'd gone in the
11 jury room and debated with the other eleven
12 jurors and discussed it, they'd listened to
13 you, you'd listened to them, could you come to
14 your own individualized, reasoned moral
15 judgment?

16 A. Oh, yes, sir.

17 Q. And if eleven jurors were going one way
18 and you had made your own moral individualized
19 reasoned judgment, could you stand your
20 ground?

21 A. Oh, yes, sir.

22 Q. You wouldn't just give up your vote and
23 say, you know, 'it's late, I'm hungry, I want
24 to go along to get along.'

25 A. Oh, noooo.

1 Q. You didn't strike me as that kind of
2 person but you understand that I've got to
3 ask.

4 A. Oh, yes.

5 Q. You'd ask the other jurors to respect your
6 vote ---

7 A. Yes, sir.

8 Q. --- in that regard, and you would respect
9 theirs?

10 A. I would. Yes.

11 MR. BLOOM: Thank you so much.

12 THE COURT: Mr. Durant?

13 VOIR DIRE EXAMINATION

14 BY BRUCE DURANT:

15 Q. Good morning, Ms. Ancrum. My name is
16 Bruce Durant. I'm the Deputy Solicitor. This
17 is Scarlet Wilson, she is the Solicitor. This
18 is Mr. Rutledge Durant. Together we will be
19 handling this case for the State.

20 I will be very brief. I noticed on your
21 questionnaire that you like C.S.I. and ---

22 A. Um-humm.

23 Q. I kind of like C.S.I. but I want to
24 understand, do you think true life is like
25 C.S.I.?

1 A. Oh, no, that's entertainment.

2 Q. That's the answer I wanted to hear.

3 A. It's not true.

4 Q. Secondly, you know, and you've already
5 answered this question, I know. As Mr. Bloom,
6 said, some people are over here (hand
7 gesture), you know. If there is a murder,
8 they are always opposed to the death penalty.

9 Then you have another group that is always
10 over here (hand gesture in opposite direction)
11 who are always going to impose life
12 imprisonment without the possibility of
13 parole.

14 You are somewhere in between there, is
15 that correct?

16 A. Yes.

17 Q. Where do you think you would be in between
18 those two?

19 A. Well, that depends on the evidence.

20 Q. Depends on the case?

21 A. The case, (affirmative nod).

22 Q. But in the appropriate case, if we were to
23 bring the appropriate case to you, could you
24 sign your name to a verdict form requiring
25 someone to be put to death?

1 A. I can.

2 BRUCE DURANT: Thank you very
3 much. I have nothing else.

4 THE COURT: Anything else, Mr.
5 Bloom?

6 MR. BLOOM: Nothing further, Your
7 Honor.

8 THE COURT: Ms. Ancrum, if you
9 would step out just for a moment, please, we
10 will get right back to you.

11 JUROR NUMBER 4: Sure.

12 (JUROR NUMBER 4 EXITS COURTROOM)

13 THE COURT: I find Ms. Ancrum to be
14 qualified, any objection from the State, Mr.
15 Durant?

16 BRUCE DURANT: No, sir.

17 THE COURT: Any objection from the
18 defense?

19 MR. BLOOM: No, sir.

20 THE COURT: Please ask her to step
21 in.

22 (JUROR NUMBER 4 ENTERS COURTROOM)

23 THE COURT: Ms. Ancrum, thank you
24 so much. I find that you're qualified to be a
25 member of the panel from which we will select

1 our jury.

2 That will take place in the morning
3 at 9:30, need for you to be back here in the
4 morning at 9:30. Come direct to this
5 courtroom. Just take a seat out there and
6 then we will select the jury. Please be
7 prepared, if necessary, to stay because we're
8 going to start the trial portion of this
9 proceeding tomorrow.

10 Until then and until you have been
11 dismissed from this case, please remember that
12 you still are not at liberty to discuss this
13 case with anyone or permit anyone to talk with
14 you about it. Also, please continue not to
15 watch any news programs about it or read any
16 news accounts. As you stated, if something
17 comes on you'll leave the room.

18 JUROR NUMBER 4: Yes, sir.

19 THE COURT: Thank you very much.
20 Have a great day and we'll see you in the
21 morning.

22 (JUROR NUMBER 4 EXITS COURTROOM)

23 THE COURT: Juror Number 72,
24 the last on in this panel.

25 BRUCE DURANT: Your Honor, when

1 is the juror that we missed yesterday, is she
2 coming back today?

3 THE COURT: Yes, sir, 2:30. She is
4 in the 2:30 panel, so this afternoon we will
5 have two panels of seven, if necessary. But,
6 as we stated, that juror will fall into her
7 normal place insofar as strikes are concerned.

8 (JUROR NUMBER 72 ENTERS COURTROOM)

9 THE COURT: Good morning, Ms.
10 Dobson. How are you?

11 JUROR NUMBER 72: I'm good, how are
12 you?

13 THE COURT: I'm great, ma'am.
14 Appreciate your patience. We are not going to
15 detain you too much longer. There are some
16 questions that I need to ask of you and these
17 questions really are followup to what we
18 talked about on Friday.

19 None of these questions that you hear
20 from me or from the attorneys -- the attorneys
21 will have an opportunity as well to ask you
22 questions -- have any correct answers to them.
23 We certainly are not here to challenge any
24 philosophies or beliefs that you have. You
25 are entitled to those. Please do not feel

1 that you have to defend them for any reason
2 because you're entitled to those. Nor are we
3 here to invade any privacy that you have.

4 We are trying to -- these questions
5 are really to assist you and us to determine
6 whether you can be a fair and impartial juror.
7 Okay?

8 JUROR NUMBER 72: Okay.

9 THE COURT: All that we ask you to
10 do is to be candid in your responses, truthful
11 and completely answer the questions. Will you
12 do that?

13 JUROR NUMBER 72: I will.

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

17 JUROR NUMBER 72: I understand.

18 REGINA DOBSON, being duly sworn to
19 tell the truth, the whole truth and nothing
20 but the truth, testified, as follows:

21 VOIR DIRE EXAMINATION

22 BY THE COURT:

23 Q. Would you state your full name for the
24 record, please?

25 A. Yes. Regina Dobson.

1 Q. Ms. Dobson, since we were together on
2 Friday, have you talked with anyone, permitted
3 anyone to talk with you or have you talked to
4 anyone, permitted anyone to talk to you about
5 this case or talk about it in your presence?

6 A. No.

7 Q. Have you watched any news accounts or read
8 any newspaper articles about it?

9 A. No.

10 Q. On Friday, I mentioned a number of names
11 but I failed to mention two names that I need
12 to ask you about. Are you related by blood or
13 marriage, have any business dealings with or
14 socially or casually acquainted with or have
15 any dealings with Jeff Osborne or Matt Casey?

16 A. No.

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

20 A. Yes, sir, I have.

21 Q. Which type most accurately describes you?

22 A. It's a hard decision but I -- I've been
23 thinking about it and I think I'd have to be a
24 number three.

25 Q. I appreciate that, I appreciate that

1 you've given serious thought to that. That is
2 precisely what we want you to do. It is a
3 difficult question because obviously -- let's
4 set the stage of what that sheet is dealing
5 with.

6 That would be case in which a jury had
7 been empaneled to serve as a judge with the
8 presiding judge in that case and that jury
9 would have a dual responsibility; that is, to
10 first determine whether or not the State had
11 met its burden of proof on the charge itself
12 but, secondly, they would be participating in
13 the sentencing.

14 That is not normally the case in this
15 state because normally the jury is empaneled
16 to decide whether or not the State can meet its
17 burden of proof on the charge. If the jury --
18 if that jury, if you would have been on that
19 jury that's on that sheet that you've read,
20 that jury would have already made the
21 determination. They would have said, 'yep,
22 we've considered it.' They'd heard all the
23 evidence, they'd received the charge on the
24 law and they'd gone back and they'd evaluated
25 that evidence and said the State met its burden

1 of proof and convicted that person of murder.

2 That means they've found beyond a
3 reasonable doubt the following: that the
4 State accused the right person, no question
5 about that beyond a reasonable doubt; that the
6 crime was murder, which is the killing of
7 another with malice aforethought, which means
8 that at the time they killed them that they
9 had malice in their mind, they were motivated
10 by an evil spirit, evil heart. There wasn't
11 any reason for doing it, they just -- they
12 wanted to kill somebody and they did it. You
13 would have already ruled out, because there
14 wouldn't have been an reason, because you
15 could have decided that it was murder and not
16 -- in South Carolina the lesser offenses of
17 killing another would be manslaughter and
18 involuntary manslaughter. In some states it
19 is called murder second degree, third degree,
20 fourth degree. We don't have that in this
21 state.

22 Those don't apply because you'd ruled that
23 this was a murder, an intentional killing, so
24 there's no question about it.

25 You now were at the point where you

1 were about to embark on the second phase,
2 which is not customary, because in a normal
3 setting on that sheet, the jury having been
4 decided, the jury would be excused -- we'd be
5 happy for you to remain, but the presiding
6 judge would then impose the sentence based on
7 the conviction. The presiding judge at that
8 time, in that setting if there weren't
9 anything else but just a murder could only
10 impose -- the maximum sentence would be life
11 imprisonment without the possibility of
12 parole. He couldn't even consider a death
13 sentence. Okay?

14 A. (No verbal response).

15 Q. It would have to impose life without
16 parole but that would be the maximum that it
17 could impose; or, it could be less than that,
18 that judge would have that option. But the
19 judge would never be able to consider life
20 imprisonment without the possibility of
21 parole.

22 Because this is a case that has been set
23 forth as where the jury has been empaneled to
24 serve, the State has said that there are
25 circumstances that exist that raise the level

1 in this case, so to speak. This is not your
2 typical murder. There are certain
3 circumstances that exist that would justify a
4 death sentence and we're asking for that.
5 That is part of what that second phase is
6 about, they have to prove that.

7 They also present evidence in the second
8 phase to assist the jury, evidence that will
9 be important in making the determination of
10 what is the appropriate sentence. That will
11 then be heard in the second phase. You
12 wouldn't have heard any of that in the first
13 phase.

14 If I am understanding your statement that
15 you're a type three juror, at that moment
16 you're about to start the second phase in this
17 abstract case, you don't have any
18 predetermination of what the appropriate
19 sentence should be. Is that correct?

20 A. Correct.

21 Q. Now, obviously types one and two at that
22 point do not have that open mind that is so
23 important for a juror to possess before they
24 start any phase. Would you agree with that
25 statement?

1 A. Yes, sir.

2 Q. Because they have a predetermination and
3 that's inconsistent with what a juror should
4 be. Would you agree with that?

5 A. Yes, sir.

6 Q. The second phase, as I mentioned to you,
7 one aspect of it, and it is a factor to be
8 considered in fashioning a sentence, because
9 it allows you to -- it may allow you to
10 consider a death sentence if the State proves
11 an aggravating circumstance beyond a
12 reasonable doubt.

13 Our law defines those, sets them forth and
14 the trial judge would have given you those
15 aggravating circumstances. Some of them, just
16 for the sake of discussion here about this
17 abstract case, that case may have involved the
18 killing of a police officer or the killing of
19 a child. If those situations exist and they
20 prove that beyond a reasonable doubt then a
21 jury in this state in that setting, set forth
22 in that sheet, would have the option of
23 considering a death sentence but they have to
24 prove that first; because if they fail to
25 prove that aggravating circumstance, the jury

1 can't even consider a death sentence. The
2 only sentence that you could return, without
3 an aggravating circumstance, would be life
4 imprisonment without the possibility of
5 parole. The reason being, that's what is
6 necessary to elevate it. Okay? Do you
7 understand that?

8 A. Yes, sir.

9 Q. Would you have any problem following that
10 instruction?

11 A. No. I don't think it's easy but I ---

12 Q. I understand that.

13 A. I think it would be a lot easier if the
14 judge decided the sentence and ---

15 Q. I understand that. I assure you, having
16 been the judge that has to pick the sentence,
17 it's not easy even then.

18 A. I know.

19 Q. It never is, it's nothing that anybody
20 derives any great pleasure from doing.

21 A. I understand.

22 Q. But I'm glad you said that and put it in
23 that vein, because that's precisely what you
24 are as a judge. The oath that we take is that
25 we are going to do things that are consistent

1 with our responsibility and the roles that we
2 have to -- the roles that we play in these
3 proceedings.

4 A. I understand.

5 Q. The tasks that are assigned to us.

6 A. Okay.

7 Q. Some of them aren't pleasant but we have
8 to be willing -- in order to step forward and
9 say, 'I'm willing to do that, you have to be
10 willing to say 'I'll endure that fact that it
11 is unpleasant, because I'm required to do that
12 by law.' You would be required to do that if
13 you were on the jury. Do you understand that?

14 A. I understand.

15 Q. Am I to understand you that while it would
16 be unpleasant that you could still perform
17 that task?

18 A. I would.

19 Q. Let's go on. I would instruct you also
20 that if you find beyond a reasonable doubt and
21 you get to that point and the jury has
22 concluded that, just for the sake of our
23 discussion in this abstract case, the
24 instruction would say then and only then may
25 you consider the death sentence. But it

1 doesn't mean that you have to return a death
2 sentence. In other words, now you have the
3 option. You have life imprisonment without
4 the possibility of parole on the one hand and
5 the death sentence on the other.

6 You have to decide between the two which
7 one is the most appropriate based on all the
8 evidence that you would have heard, both the
9 nature of the crime which you heard in the
10 first part, and the evidence that you heard in
11 the second part that deal specifically with
12 the sentence that would be appropriate.

13 Am I understanding that you could follow
14 that instruction, as well, that you could --
15 that you could evaluate the evidence and make
16 a decision based on the circumstances in that
17 case which one you believe to be appropriate?

18 A. Yes, sir, as a part of the jury.

19 Q. That's correct. You are performing this
20 task as a juror, part of the jury, as a judge,
21 as a member of the panel which is the
22 collective judge.

23 A. I understand.

24 Q. Because you have one vote, with eleven
25 others. Okay?

1 A. (Affirmative nod).

2 Q. But the question that I have is, if after
3 deliberating in that case the jury after
4 evaluating all the evidence decided that based
5 on the circumstances, based on everything we
6 believe that the death sentence is the most
7 appropriate. Do you believe and you know of
8 circumstances, and I'm not asking you to tell
9 me what they are but there are circumstances
10 in your mind today that if those were to be
11 established would warrant your -- notwith-
12 standing that you don't want to -- but would
13 warrant that 'yes, I think as a juror, as a
14 judge that's the most appropriate sentence',
15 and you could do that?

16 A. Yes, sir.

17 Q. And you would do that if you were on that
18 panel ---

19 A. Yes, sir.

20 Q. --- and came to that point?

21 A. I would.

22 Q. That would mean that as a part of
23 performing the task as a juror, that if the
24 jury -- that if the verdict of the jury was
25 the death sentence, there will be a form

1 submitted by the court that you would have to
2 sign that says 'we impose' -- 'we vote to
3 impose the death sentence' and you'd have to
4 put your name as a juror. Do you understand
5 that?

6 A. (Affirmative nod).

7 Q. You'd have to sign that.

8 A. (Affirmative nod).

9 Q. You would perform that task, as well?

10 A. I would. I didn't know about that, but I
11 would.

12 Q. Yes, ma'am, and that's precisely why I
13 tell you, because it's not only that vote,
14 which obviously you did when you confirmed
15 that you -- most of the time the jury is
16 polled in those situations. That means that
17 when they come in the clerk will ask you --
18 most of the time they ask that the jury be
19 polled and the juror says 'yes, that's my
20 decision and it is still my decision.'

21 But it goes a little bit further when you
22 have to sign a form that says "I vote for
23 death." But you would be able to perform that
24 task?

25 A. Yes, I would.

1 Q. Likewise, given that same situation, while
2 you would have the option, you can foresee and
3 you can visualize circumstances and think of
4 circumstances where you may have the option to
5 impose a death sentence but after evaluating
6 it your choice would be that the most
7 appropriate sentence would be life
8 imprisonment without the possibility of parole
9 instead of the death sentence?

10 A. Yes, sir.

11 Q. And you could weigh it and make a
12 determination as to which one you thought was
13 the most appropriate?

14 A. (Affirmative nod). Yes, sir.

15 Q. Okay, let's talk about some of the
16 evidence that you would hear in addition to
17 the aggravating circumstances. You'd hear
18 some other evidence that would be helpful in
19 fashioning a sentence concerning the
20 defendant, the person accused.

21 You also may hear something that we call
22 mitigating circumstances. Our law defines a
23 number of those by statute. Some of them are
24 not statutory, they are just commonsense
25 mitigating circumstances that you would

1 certainly be expected to apply your life's
2 experience and your knowledge in that regard.

3 Some of the statutory mitigating
4 circumstances would be addictions, were they
5 suffering from any impairment because of
6 taking some drug or alcohol; which would not
7 be an excuse for it, but may give the jury
8 some explanation of why they may have acted
9 the way that they did. How they were raised
10 as a child, childhood problems, development
11 problems, mental or emotional issues that they
12 may have been fighting all of their lives,
13 that type of evidence which we lump into
14 calling "mitigating circumstances".

15 Part of the instruction would be that if
16 there are any that you would be instructed to
17 give meaningful consideration to those issues,
18 as well. Would you, if you were on a jury,
19 carefully consider all of those issues also in
20 deciding what sentence is most appropriate?

21 A. Yes, I would.

22 Q. Okay. I would also instruct you through
23 out that persons accused don't have any
24 responsibility to prove anything, they don't
25 have an obligation to prove their innocence,

1 they don't have to present any evidence. They
2 have no duty whatsoever. Do you understand
3 that?

4 A. Yes, sir.

5 Q. And I would further instruct you that if
6 they if they chose not to, then the jury can't
7 use that against them in any way. In fact,
8 they don't even have to testify. If they
9 don't, you can't even consider that. Would
10 you have any problems following that
11 principle?

12 A. I wouldn't. I understand.

13 Q. You would be able to follow that and set
14 aside any feelings that you have and say
15 'nope, that's not for my consideration -- I'm
16 not to consider that.'

17 A. Right.

18 Q. So if in the second phase there are no
19 mitigating circumstances, you can't hold that
20 against a person. Do you understand that?

21 A. Yes.

22 Q. And you would not do that. Is that
23 correct?

24 A. Yes, sir.

25 Q. And that's important because that's

1 consistent with the law.

2 A. Yes, sir.

3 Q. But there is something else, too, that
4 you'd hear as a juror. In addition to
5 everything else that I've told you, I would
6 also tell you that you have the right as a
7 juror, as a judge in that case when you're
8 considering between life imprisonment without
9 the possibility of parole and a death
10 sentence, to decide to impose life
11 imprisonment without the possibility of parole
12 for no reason at all. That's your right.

13 So, in other words, if you chose to, you
14 have the right to do so. Do you understand
15 that?

16 A. Yes, sir. Right. You mean, it would be
17 my opinion that ---

18 Q. If you as a juror -- if you as one of the
19 twelve said, 'You know what? We can't give
20 any rationale reason for this but we just feel
21 that life imprisonment without the possibility
22 of parole is the best sentence.' If you
23 choose to do that, you have that right. Do
24 you understand that?

25 A. I do.

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1 Q. Now, that's not saying what you have to
2 do. It's just telling you that would be an
3 option for you, as well. You'd be able to
4 consider that carefully and evaluate that
5 consistent with the facts and make the proper
6 determination in your mind at that time. Is
7 that right?

8 A. Yes, sir.

9 Q. And you would be fair and impartial in
10 performing that?

11 A. I would.

12 Q. You also would be willing to set aside all
13 of your personal beliefs -- just as you just
14 said, 'I wouldn't want to do that' but you'd
15 set that aside, just by way of illustration,
16 and perform that task. Is that correct?

17 A. Yes, sir.

18 Q. Okay. Let's talk for a moment -- now
19 forget about the abstract case and let's focus
20 now on Mr. Dickerson.

21 You will remember that I told you that Mr.
22 Dickerson was accused of a number of offenses
23 and I told you that he, as anybody accused of
24 any offense in this state and this country, is
25 presumed innocent. I believe that you didn't

1 have any problem with that principle of law.

2 A. No, sir.

3 Q. That's a very active presumption. By
4 that, I mean that if we see people who are
5 accused of criminal offenses, we have to
6 actively see them as innocent. Do you have
7 any problem as you look at Mr. Dickerson today
8 believing that he is innocent of these
9 charges?

10 A. I don't.

11 Q. And you understand that that position,
12 that state of mind cannot change until and
13 unless, if you were on the jury, the State --
14 and you had been instructed to begin your
15 deliberations. Then after considering all the
16 evidence and considering the law, you were
17 satisfied and convinced beyond a reasonable
18 doubt that the State had convinced you
19 otherwise; that is, had established each
20 element of the crime involved? Not until then
21 could you change that position. Do you
22 understand that?

23 A. (Affirmative nod), -- at the end?

24 Q. Whenever you'd considered all the evidence
25 and you'd decided 'yes, they've proved that

1 beyond a reasonable doubt and now I believe
2 that he is the person that did the crime.'
3 You've made your decision. Then you could
4 change your mind. Do you understand that?
5 That's what it means. Until and unless the
6 State proves him guilty beyond a reasonable
7 doubt. That's what that means. Okay?

8 A. Okay. I do.

9 Q. And you would be able to honor that, as
10 well?

11 A. I could.

12 Q. And you have not heard anything in this
13 case that would give you any concern about
14 your ability to fairly and impartially apply
15 your common sense, your sense of logic and
16 reasoning. Is that correct?

17 A. (No verbal response).

18 Q. Thus far?

19 A. (Affirmative nod), that's correct.

20 Q. And you have an open mind, totally?

21 A. Yes, sir.

22 Q. Okay. You're willing to follow the law
23 that I give you and to set aside all your
24 personal feelings, strong feelings and
25 philosophies and any beliefs that you may have

1 as to what the law should be or might be?

2 A. Yes, sir.

3 Q. Thank you.

4 THE COURT: Please answer any
5 questions that the attorneys may have. Mr.
6 Durant?

7 VOIR DIRE EXAMINATION

8 BY BRUCE DURANT:

9 Q. Good morning, Ms. Dobson. My name is
10 Bruce Durant. I'm the Deputy Solicitor. This
11 is Scarlet Wilson, she is the Solicitor. This
12 is Mr. Rutledge Durant here, as Assistant in
13 our office.. Together we will be handling
14 this case for the State.

15 Thank you for being here this morning. I
16 just have a couple of question on followup to
17 what Judge Dennis asked you about.

18 As he was going through the colloquy, I
19 understand that you are kind of a middle-of-
20 the-road juror. Is that correct?

21 A. I guess -- yes, I guess. I would look at
22 both sides.

23 Q. Okay. Because you have some people, you
24 know, that think the death penalty should be
25 imposed in every case of murder and then you

1 have the other side that says the death
2 penalty should never be imposed, that it
3 should always be life without parole.

4 Where do you put yourself in that spectrum?

5 A. It would depend on the crime.

6 Q. It just depends on the case?

7 A. (Affirmative nod).

8 Q. Okay. As the judge told you, in a case
9 just as this there are generally two trials.

10 You have a trial to determine whether a
11 defendant is guilty or innocent.

12 If the jury determines that he is guilty,
13 then you have a second trial to determine what
14 the punishment should be. Do you understand
15 that?

16 A. I do.

17 Q. As I understand your answers to the Judge,
18 you're willing to reserve judgment until
19 you've heard the second part of the trial, as
20 well; is that correct?

21 A. Right.

22 Q. In other words, you're not going to make
23 up your mind after hearing the first part?

24 A. (No verbal response).

25 Q. Is that correct?

1 A. That's correct.

2 Q. You'll be able to consider aggravating
3 circumstances that the State may prove, is
4 that correct?

5 A. (Affirmative nod).

6 Q. And you would be able to consider
7 mitigating circumstances that a defendant
8 might prove, but that he is not required to;
9 do you understand that?

10 A. Yes.

11 Q. In other words, you'd want to hear the
12 whole case?

13 A. I would.

14 Q. And if after hearing the whole case -- and
15 -- one other question, assuming -- because the
16 defendant is never required to prove anything
17 in a court of law, do you understand that?

18 A. Yes, sir, I do.

19 Q. I believe Judge Dennis just told you that.

20 A. (Affirmative nod).

21 Q. Assuming that there were no mitigating
22 circumstances, you understand that you could
23 impose a sentence of life without parole just
24 as an act of mercy?

25 A. (No verbal response).

1 Q. Do you understand that?

2 A. I do.

3 Q. My last question is, could you as part of
4 a collective part of a jury in a capital case
5 sign your name to the verdict form requiring
6 that someone be put to death?

7 A. Yes. I think at the end if I went along
8 with it that I would be able to sign it.

9 Q. If that was the collective judgment of the
10 jury, you could sign that?

11 A. (Affirmative nod).

12 BRUCE DURANT: Thank you. I have
13 nothing further.

14 THE COURT: Mr. Bloom?

15 VOIR DIRE EXAMINATION

16 BY MR. BLOOM:

17 Q. Good morning, Ms. Dodson. How are you
18 today?

19 A. Well, thank you.

20 Q. My name is Jeff Bloom and along with
21 Andrew Carroll, who is out of the courtroom
22 right now, we represent William Dickerson. I
23 just have a few followup questions from what
24 Judge Dennis asked you.

25 A. Okay.

1 Q. If we were to just be talking about the
2 death penalty in general, not this case, what
3 would your opinion about the death penalty be?

4 A. It depends on what the crime was. There
5 are some things that might make it more for
6 the death penalty.

7 Q. I noticed on your questionnaire that when
8 you were asked that question that you wrote in
9 "for violent crimes".

10 A. (Affirmative nod).

11 Q. Of course, that's your opinion?

12 A. (Affirmative nod).

13 Q. I'm sorry, but she (court reporter) has to
14 take down 'yes', 'no' or whatever your answer
15 is.

16 A. I'm sorry, -- "Yes."

17 Q. Thank you, ma'am. You understand that
18 there are no right or wrong answers and we're
19 not here to question your opinion. We just
20 kind of need to know. You understand why
21 we're asking, don't you?

22 A. Yes, sir, I do.

23 Q. Now, you understood Judge Dennis when he
24 explained that murder of course is a violent
25 crime; right?

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1 A. (Affirmative nod).

2 Q. Do you understand that?

3 A. Yes, I do.

4 Q. I think he explained it as someone who did
5 it, intended to do it, did it with malice,
6 meanness, mean-spirited, they got the right
7 person beyond a reasonable doubt, it was not
8 accident, not self-defense or manslaughter or
9 insanity. Someone set out to do it, they did
10 in, intended to do it with evil in their
11 heart. Of course, that's a violent crime.

12 A. (Affirmative nod).

13 Q. There are some folks who feel, 'You know
14 what? Once that has been proven to me, my
15 opinion is so strong that I can't listen to
16 whatever else is coming in. I am going to
17 have problems following the law and for that
18 type of violent crime, that type of malice
19 murder, I am going to vote for the death
20 penalty each and every time.'

21 We just kind of need to know if your
22 opinion is so strong -- if that's how you feel
23 or not.

24 A. Again, it would depend on how violent the
25 crime was and the circumstances of the crime.

1 Q. Okay. So if you found someone guilty of
2 that malice murder, are you going to
3 automatically vote for death at that point
4 before you get to that next phase?

5 A. No.

6 Q. Okay. The Judge also explained that once
7 the jury finds a person guilty -- and let me
8 back up, let me just clarify for a minute or
9 ask you a question. Are there some -- is your
10 opinion such that there are some violent
11 crimes where even if a murder didn't happen
12 you would still believe that the death penalty
13 might be ---

14 BRUCE DURANT: Objection.

15 THE COURT: She's answered that
16 question, Mr. Bloom, very specifically and I
17 am not going to let you inquire any further
18 than that. She has already said, and I asked
19 her specifically would she impose that -- if
20 you want to go back to the question that I
21 asked her, that's fine. For you to ask the
22 same question but I am not going to allow you
23 to -- you're delving into what specifically
24 are the ---

25 MR. BLOOM: She ---

1 THE COURT: She has already said
2 that -- what she said -- what I understood you
3 to say, ma'am, and maybe I misunderstood what
4 you were saying and I want to clarify it for
5 Mr. Bloom's sake because I might have heard it
6 incorrectly. As I understood it, because I
7 told you that -- we set the stage, so to
8 speak, in that abstract case. That if you had
9 -- if you were at the point where you had all
10 the evidence to consider and you had an
11 opinion, in this case, to impose the death
12 sentence or life without the possibility of
13 parole then you, depending on certain facts
14 and circumstances, could impose a life
15 sentence and not impose a death sentence,
16 vice-versa.

17 JUROR NUMBER 72: (Affirmative nod).

18 THE COURT: That's what I heard her
19 say. Thank you. So she has answered your
20 question.

21 MR. BLOOM: I may not have asked it
22 well.

23 EXAMINATION CONTINUED

24 BY MR. BLOOM:

25 Q. What I would like to ask you now, ma'am,

1 and I don't want you to tell me what they are,
2 but are there some types of crimes where you
3 think the death penalty might be warranted
4 even if a murder didn't occur?

5 THE COURT: Whoa, hold on. If a
6 murder didn't occur?

7 MR. BLOOM: Yeah. If I may be
8 heard, Your Honor? If I may be heard?

9 THE COURT: You may. I'd ask her
10 to leave -- Ms. Dobson, there's a matter that
11 I have to take up out of your presence, and I
12 have to do that without you present. If you
13 would step out just for a moment, please.

14 (JUROR NUMBER 72 EXITS COURTROOM)

15 THE COURT: Mr. Bloom?

16 MR. BLOOM: Judge, I am not trying
17 to stake out the juror -- if I may explain for
18 a minute. Her answer to the question, "What
19 is your opinion, if any, about the death
20 penalty?" is, quote, "Yes, for a violent
21 crime." All I am trying to inquire is if
22 this juror has a strong belief that the death
23 penalty ought to be available for some crimes
24 where a homicide does not even occur.

25 THE COURT: Why?

1 MR. BLOOM: Well, because it's a
2 strong opinion. It may not -- it wouldn't
3 necessarily ---

4 THE COURT: No, sir.

5 MR. BLOOM: --- disqualify her but
6 it would ---

7 THE COURT: No, sir.

8 MR. BLOOM: It's a strong ---

9 THE COURT: I appreciate that.
10 Frankly, Mr. Bloom, I appreciate it and I'm
11 honoring what the law says. A defendant has
12 the right to ask questions but I'm sitting
13 here and each time you've been doing the same
14 thing and there's really no reason to do that.
15 You go through exactly what I've gone through
16 and I think, 'then why do I do it?' I do it
17 because I have the threshold -- regardless of
18 what you have a right to do, I have to decide
19 whether this woman can comply with the law and
20 can comply with her oath as a juror. That's
21 why I go into the detail about the murder.

22 Why do you need to say all that
23 again? You're just repeating again and it's
24 just time-consuming. It's just you talking.
25 That's what I've been talking about. We need

1 to stop that. Okay? You need to reduce the
2 amount of just talking, because I know what
3 it's for. I understand the game, I understand
4 the gamesmanship. I am not suggesting that is
5 your motive but I understand that because I've
6 done the same thing, but I am telling you that
7 I want you to stop the repetition. Okay?

8 If you're telling me, 'Judge, you're
9 depriving me by talking about the crime', then
10 I will let you talk about it. But the problem
11 is, how can I make a threshold determination
12 unless I explain to her what a murder is? You
13 don't need to tell her it again if she has
14 already said. If she said something wrong and
15 I failed to catch it, then absolutely but
16 you've got to have something to trigger some
17 of this.

18 I don't find a violent crime when
19 we've been talking about murder and I've
20 already told her what murder is -- we'll
21 already told her that if there is no guilt of
22 murder then it's over. That ends it. Now,
23 if you want to ask that question, that's fine.
24 I don't have any problem with that, because
25 that would say that you can't get to it

1 indirectly. But I'm not going to allow you to
2 ask about a crime that is not a murder. There
3 is nothing that even -- there is nothing in
4 her answer that would suggest that. Okay?

5 MR. BLOOM: May I respond?

6 THE COURT: Absolutely.

7 MR. BLOOM: Thank you, Your Honor.

8 It is in two respects. One, I mean no
9 disrespect to the court by the answers (sic)
10 -- by the questions that I am asking.
11 Oftentimes these jurors are answering Your
12 Honor in a yes/no format. I am just trying to
13 see if I can elicit a little further
14 explanation about their beliefs. I am not
15 trying to stack out or to be repeti--, -- I
16 apologize if it is repetitious. I am just
17 trying to see if I can engage a response
18 beyond a mere yes or no to understand their --
19 -

20 THE COURT: Let me tell you how you
21 can do that: 'The Judge has explained murder
22 to you...' -- you don't need to say 'it is not
23 manslaughter...', I've already explained that
24 to them. That is repetition.

25 If she had demonstrated that she

1 didn't understand, then you're right but she
2 hasn't. Just ask a specific question. Are
3 you telling me that you can -- you state, for
4 instance, there's nothing that this juror has
5 said that she is the type of juror that would
6 automatically vote for the death sentence.
7 She has already said, 'I am not that type of
8 juror.'

9 Why do you say, 'You know, there are
10 types of jurors that automatically do....' --
11 why do you say that? That's -- to be candid
12 with you, you are a father, too, why do you
13 even suggest that? You don't want that type
14 of juror. Why do you mention it?

15 You can say, 'You've said that you
16 don't automatically determine that. Is that
17 truly how you feel?' That just because you
18 have convicted a person of murder, you
19 wouldn't automatically have a -- she's already
20 said that once but that's fine, you can follow
21 up with that. You don't need to go stating
22 all the preliminary statements. I don't
23 think.

24 MR. BLOOM: In respect to this
25 specific juror, Your Honor, I am simply -- as

1 the last question I proposed, I am simply
2 trying to see if she has a strong belief that
3 the death penalty ought to be available for
4 people who don't commit homicides.

5 THE COURT: Why would you have that
6 reason?

7 MR. BLOOM: Well, it may not be a
8 strike for cause but I have to ---

9 THE COURT: That's fine. It's not
10 a strike for cause.

11 MR. BLOOM: Yes, sir, but it may
12 justify a peremptory strike if she has a
13 strong belief that the death penalty ought to
14 be awarded when it is not a homicide?

15 THE COURT: You know what? I even
16 wonder, to be candid with you, I -- I could
17 more understand why Mr. Durant would be
18 inquiring, because I really question whether
19 she is middle of the road. I don't think she
20 is. You know why? Because of her response to
21 me, "I really don't want to do that."

22 Why are you even asking a question?
23 I mean, you've got a person that I wrote down
24 that I think she is more life prone than death
25 prone. That's the way that I see this woman.

1 So what is it in the world that I am missing,
2 Mr. Bloom? What is it that triggers, that
3 justifies your exploring that? There is
4 nothing that I see that does that.

5 Based on that, I sustain the
6 objection. Okay?

7 MR. BLOOM: Thank you, Your Honor.

8 THE COURT: Thank you. Bring the
9 person in.

10 (JUROR NUMBER 72 ENTERS COURTROOM)

11 THE COURT: Thank you for your
12 patience, Ms. Dobson. That's just the way
13 that we have to do things. I hope that
14 doesn't upset you. Please understand that's
15 that separation that we have to observe
16 between the jury and the law. You don't have
17 anything to do with the law and if you're on
18 the jury we won't be in the jury room, so we
19 won't be listening to what you'all talk about
20 either. Okay?

21 JUROR NUMBER 72: Yes, sir.

22 THE COURT: Thank you, Mr. Bloom.
23 I appreciate your indulgence, as well.

24 MR. BLOOM: Thank you, Your Honor.

25 THE COURT: You may continue.

1 EXAMINATION CONTINUED

2 BY MR. BLOOM:

3 Q. Ma'am, I just have a few final, wrap-up
4 questions to ask you. If you were in such a
5 phase, trying to decide between the ultimate
6 penalty and life imprisonment without the
7 possibility of parole, after you'd heard all
8 the evidence, you'd heard all the
9 circumstances, listened to Judge Dennis's
10 instructions, the law, as you understand from
11 Judge Dennis, does not ever require a death
12 sentence. Do you understand?

13 A. (No verbal response).

14 Q. Did you understand his instruction to you?

15 A. I did.

16 Q. Okay. I ask that because what the law
17 does ask you to make is your own
18 individualized, reasoned moral judgment. Can
19 you accept that?

20 A. I can.

21 Q. And if you were with the other eleven
22 jurors, hearing all the evidence, all the
23 circumstances, listening to Judge Dennis's
24 instructions, had discussed and deliberated
25 with the other jurors, if you'd listened to

1 them and they'd listened to you and ultimately
2 at some point you come to your own
3 individualized, reasoned moral judgment but
4 eleven jurors were of a different view and you
5 -- you were by yourself, could you stand by
6 your own individualized, reasoned moral
7 judgment?

8 A. Uh -- yeah. I think the whole jury would
9 have to discuss ---

10 Q. Absolutely. I'm not suggesting otherwise.
11 Obviously everybody discusses and deliberates
12 but you understand that some people, if it
13 reaches a point in time when it's time to go
14 home to dinner or whatever, they are tired,
15 they kind of go along to get along. I guess
16 what I am asking just simply is, you wouldn't
17 give up your vote just to go along to get
18 along?

19 A. No.

20 Q. You would ask them to respect your own
21 vote and moral judgment?

22 A. I would.

23 Q. And you would respect theirs?

24 A. (Affirmative nod).

25 Q. Thank you, ma'am. I have one very simple

1 question. Here, I notice that you at one
2 point worked at AMI (phonetic) Care Systems?

3 A. ANMED (phonetic).

4 Q. Okay. There may be one other eligible
5 juror, by the name of Mary Cox, who may work
6 there also. Do you know her?

7 A. I don't.

8 Q. A younger woman?

9 A. (Negative gesture).

10 Q. Okay.

11 A. She might work in another office, they
12 have like three.

13 Q. All right. I didn't know that.

14 MR. BLOOM: Thank you ma'am.

15 THE COURT: Thank you, Mr. Bloom.

16 Any additional questions, Mr. Durant?

17 BRUCE DURANT: No, sir.

18 THE COURT: Thank you so much, Ms.
19 Dobson. I am going to ask that you step out
20 again just for a moment. We will be with you
21 momentarily.

22 JUROR NUMBER 72: Okay.

23 (JUROR NUMBER 72 EXITS COURTROOM)

24 THE COURT: I find Ms. Dobson to be
25 qualified. Any objection from the State?

1 BRUCE DURANT: No, sir.

2 THE COURT: Any objection from the
3 defendant?

4 MR. BLOOM: No, sir.

5 THE COURT: Thank you. If you
6 would, bring her in please.

7 (JUROR NUMBER 72 ENTERS COURTROOM)

8 THE COURT: Thank you so much, Ms.
9 Dobson. I appreciate you being here and I
10 appreciate your participation in this process.
11 You've been found to be qualified to be a
12 member of the panel from which we will select
13 our jury.

14 That will take place in the morning
15 at 9:30, need for you to be back here in the
16 morning at 9:30. Come directly to this
17 courtroom. Just take a seat out there in the
18 audience, you will see some of your fellow
19 jurors about there, and then we will select
20 the jury. Please be prepared, if necessary,
21 to stay because we're going to start the trial
22 portion of this proceeding tomorrow. We will
23 start right away with that. Okay?

24 JUROR NUMBER 72: But I may not be
25 picked. Right?

1 THE COURT: You may not be. I don't
2 know. You're just a member of the group.

3 JUROR NUMBER 72: Right.

4 THE COURT: Let me ask you a
5 question -- and I appreciate that. As I
6 understand, and I think it was clear it is not
7 something that you would really like to do but
8 if you have to do you will do. Is that
9 correct?

10 JUROR NUMBER 72: Correct. I am
11 thinking that it wouldn't be easy for anybody.

12 THE COURT: It's not. I
13 understand.

14 JUROR NUMBER 72: I understand but I
15 -- I understand.

16 THE COURT: Your statement is not
17 to say that you want to qualify or change some
18 of your answers that you gave earlier. Is
19 that correct?

20 JUROR NUMBER 72: Correct.

21 THE COURT: I just want to be sure.
22 Let me also remind you that until you have
23 been dismissed from this case, please remember
24 that you still are not at liberty to discuss
25 this case with anyone or permit anyone to talk

1 with you about it. Also, please continue not
2 to watch any news programs about it or read
3 any news accounts.

4 Before you leave -- any additional
5 questions from the State concerning ---

6 SOLICITOR WILSON: No, sir.

7 THE COURT: Thank you very much.
8 Have a great afternoon and we'll see you
9 tomorrow morning at 9:30.

10 JUROR NUMBER 72: Yes, sir.

11 (JUROR NUMBER 72 EXITS COURTROOM)

12 THE COURT: Shall we plod on to the
13 next panel, does that suit you all?

14 BRUCE DURANT: I can go, Your
15 Honor.

16 THE COURT: Mr. Bloom, are you
17 okay?

18 MR. BLOOM: Yes, sir.

19 THE COURT: Thank you, sir.

20 CLERK, MICHAEL CALLAHAN: Judge
21 Dennis, I think that there were two jurors who
22 had not filled out questionnaires.

23 THE COURT: Do they have them now?

24 CLERK, MIKE CALLAHAN: I have
25 Ms. Dawson's and I'll pass those out now.

1 THE COURT: They are Dawson and --
2 the first one that we have is Pridgen and we
3 have the form on Pridgen, so let's take them
4 in that order. We'll take them in order right
5 now. We will be able to get through three and
6 maybe that would be a good time for a break
7 then, too. Let's ask 246, Ms. Pridgen.

8 (JUROR NUMBER 246 ENTERS COURTROOM)

9 THE COURT: Good afternoon. If you
10 will sit and pull yourself up so that you can
11 speak into that mic comfortably.

12 We are going to continue the process
13 that we started on Friday. I am going to have
14 some questions that I need to ask of you and
15 the attorneys probably will have some, too.

16 As you probably noted on Friday and
17 recall, and discern as well, there really are
18 no correct answers to any of these questions.
19 They are really just designed to help you and
20 to help us make a determination as to whether
21 you can be a fair and impartial judge in this
22 matter. Okay?

23 JUROR NUMBER 246: Okay.

24 THE COURT: All that we ask, sir,
25 is that you give a truthful response, a

1 complete response and a candid response. Will
2 you do that, sir?

3 JUROR NUMBER 246: Yes, sir.

4 THE COURT: I would remind you in
5 that regard that you are still under oath in
6 this matter. Okay?

7 JUROR NUMBER 246: Okay.

8 DANA PRIDGEN, being duly sworn to
9 tell the truth, the whole truth and nothing
10 but the truth, testified, as follows:

11 VOIR DIRE EXAMINATION

12 BY THE COURT:

13 Q. Please state your full name for the
14 record.

15 A. Dana Elizabeth Pridgen.

16 Q. Since we were together on Friday, have you
17 talked with anyone, permitted anyone to talk
18 with you, talked to anyone, permitted anyone
19 to talk to you about this case or talk about
20 it in your presence?

21 A. No, sir.

22 Q. Have you watched any news accounts or read
23 any newspaper articles about it?

24 A. No, sir.

25 Q. On Friday, I mentioned a number of names

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

7 A. No, sir.

8 Q. When you came today you were given a sheet
9 that sets forth three types of jurors, have
10 you had a opportunity to review that sheet?

11 A. Yes.

12 Q. Which type most accurately describes you?

13 A. I am a type three.

14 Q. Type three, Ms. Pridgen, is -- of course,
15 obviously from your reviewing the sheet you've
16 probably already discerned that that would be
17 a juror in a case where the jury was going to
18 have to make the determination of what
19 punishment was appropriate for the offense of
20 murder. You understand that?

21 A. Yes, sir.

22 Q. Obviously in -- in setting the stage, so
23 to speak, the question would be -- this
24 question comes at the conclusion of the
25 evidentiary -- when they've heard whether or

1 not the person charged was the person that
2 committed the crime. Do you agree?

3 A. (Affirmative nod).

4 Q. So that jury would have already heard all
5 the evidence concerning the charge of murder.
6 Do you understand that?

7 A. Yes, sir.

8 Q. And you would have concluded as a member
9 of that jury that the State had convinced you
10 beyond a reasonable doubt of each of the
11 elements of that crime. Do you agree?

12 A. I agree.

13 Q. One would be that the person that they
14 accused is the person, no question, beyond a
15 reasonable doubt that is the person.

16 Two, that the killing is murder and not
17 some other lesser offense. In this state
18 there are really two that a jury would not
19 consider on a murder charge. One would be
20 called manslaughter and the other involuntary
21 manslaughter.

22 Manslaughter is when somebody, because of
23 some action was provoked into doing something,
24 it caused them to be upset and they responded
25 because they were upset. It's not that type

1 of crime.

2 The other, involuntary manslaughter,
3 really is basically a reckless action by
4 someone and a person died.

5 Some states call it second, third degree
6 murder but we can't call them that in this
7 state. You don't need to worry about that
8 because in this particular setting you would
9 have concluded that this was murder, which is
10 defined as the killing of another with malice
11 aforethought. That means that it is a
12 malicious killing, evil-spirited, mean-
13 spirited, no real reason, no justification, no
14 self-defense, that's gone, no mistake. They
15 wanted to kill this person. They didn't have
16 any rationale reason for doing so, they did
17 it, they meant to do it, there wasn't any
18 question about that. So that's where we are.
19 Okay? You've made that decision.

20 Now we are about to start the second
21 phase, which in this state is a very critical
22 process where a jury is involved. Okay?

23 A. (No verbal response).

24 Q. Let's talk for a moment about in that
25 case, that abstract, as a juror there are

1 certain qualities that you would have already
2 demonstrated, that are important, I think, to
3 serving on a jury and I would like to talk
4 about them with you for just a moment.

5 First of all, would you agree with me that
6 a juror needs to be fair and impartial?

7 A. Yes, sir.

8 Q. That means that they can't have any pre-
9 determination about any issue in a case. That
10 means that they have an open mind. Would you
11 agree with that?

12 A. Yes, sir.

13 Q. I would instruct you if you were on a jury
14 that that open mind has to be -- that you have
15 to maintain that open mind throughout. You
16 can't change that position until the court
17 tells you to deliberate, because it's that
18 process where that begins to change. Only
19 then can that occur. Would you have any
20 problem performing that function?

21 A. No, sir.

22 Q. The other part is that as a juror, you
23 would be expected, as I told you Friday, to
24 use your common sense, your sense of logic and
25 reason, your life's experiences, you would be

1 expected to use that and apply that in
2 evaluating evidence, which consists of
3 testimony of the witnesses and exhibits in
4 deciding what you believe to be the truth.
5 Do you believe that you could do that, as
6 well?

7 A. Yes, sir.

8 Q. Of course, that you would be fair and
9 impartial in doing that, and you could perform
10 that, as well?

11 A. Yes, sir.

12 Q. Okay. Another part of the jury that is
13 important, that is part of the oath that you
14 take as a juror, that you would perform what
15 we've talked about in performing the task of
16 being a judge of the facts. That's what we
17 just discussed.

18 A. (Affirmative nod).

19 Q. The other is that your decision would not
20 only be consistent with the evidence but would
21 be consistent in accordance with the law. As
22 a juror, you don't have anything to do with
23 that. Just as the judge has nothing to do
24 with the facts, the jury as the judge of the
25 facts has nothing to do with the law. That's

1 the judge's responsibility. Would you have
2 any problem honoring that, as well?

3 A. No, sir.

4 Q. That means -- and I am not suggesting that
5 that will always happen, but it can, that you
6 may hear some law that you think, you know, 'I
7 didn't think that was the law' or

8 'I don't think that ought to be the law.'

9 If you have those feelings, you promise that
10 you're going to set those aside. Would you do
11 that?

12 A. Yes, sir.

13 Q. If the law was something that you wouldn't
14 customarily do and you wouldn't like to do but
15 as a juror, in the task that you undertook,
16 you are required to do it, would you be able
17 to set aside those personal feelings and do
18 it?

19 A. Yes, sir.

20 Q. You would honor that, as well?

21 A. Yes, sir.

22 Q. So I -- understanding then that you would
23 -- you have already indicated in this abstract
24 case that you were willing to be that type of
25 juror, is that correct?

1 A. Yes.

2 Q. So you are the type three that says 'I am
3 about to start in the second phase to
4 determine the punishment but at point, as I've
5 promised, I have an open mind.'

6 A. Yes, sir.

7 Q. 'I don't have any predetermination.'

8 A. Yes, sir.

9 Q. Would you agree with me that type one and
10 type two, while they may be justified in their
11 personal beliefs, they don't have that open
12 mind?

13 A. I agree.

14 Q. Therefore, that would not be proper for
15 them to be in that position; would you agree
16 with that?

17 A. (Affirmative nod).

18 Q. Because they would have promised both
19 sides that they could be fair.

20 A. (Affirmative nod).

21 Q. You are being fair when you say, 'I don't
22 know which one it is.'

23 A. Right.

24 Q. Okay. That is very important. First of
25 all, because it's part of the basic process,

1 part of the law. But in this state, normally
2 a jury is not involved in sentencing.
3 Normally it's a judge -- a jury is empaneled,
4 decides whether the state has met its burden of
5 proof and once they've returned a guilty
6 verdict, that ends it. The court, the judge
7 then impose the sentence.

8 Typically in that situation the maximum
9 sentence that the judge could impose would be
10 life without parole. He wouldn't have to
11 impose that. In fact, he could impose less
12 than that if he chose to, but the maximum
13 would be life without parole. The judge
14 certainly would not have the option of
15 imposing a death sentence. Do you understand
16 that?

17 A. Yes, sir.

18 Q. Our law says that is not available unless
19 there is another thing that has to be decided,
20 and that's part of that second phase. Part of
21 the process of determining the appropriate
22 sentence is that the State has to first prove
23 beyond a reasonable doubt something that we
24 call in law "aggravating circumstances".
25 There are a number of them. They have to

1 prove at least one of those for the jury to
2 even be able to consider that as a potential
3 sentence. Do you understand that?

4 A. Yes, sir.

5 Q. Aggravating circumstances, as I stated
6 there are many. Let's just talk, so that we
7 will have an understanding. In that abstract
8 case, two that come to mind would be the
9 killing of a police officer or the killing of
10 a child. If that case involved one of those,
11 you would have to determine beyond a
12 reasonable doubt that the State had met its
13 burden of proof and established that this
14 person committed the offense of murder and
15 that the person that was killed was a child or
16 was a police officer.

17 If that conclusion was made by the jury
18 beyond a reasonable doubt, then and only then
19 would the jury have on the table, so to speak,
20 the option of considering a death sentence.

21 If it is not, then the only choice, the
22 only sentence would be life imprisonment
23 without the possibility of parole.

24 Would you be able to follow that
25 instruction?

1 A. Yes.

2 Q. Now, the instruction would go on to say
3 that if that had been established beyond a
4 reasonable doubt, then the jury would have to
5 pick between the two but there would be no
6 instruction at all that said that you had to
7 choose one or the other. In other words, it's
8 left to your discretion and your judgment
9 which one is the most appropriate. Would you
10 have any problem following that instruction?

11 A. No, sir.

12 Q. As I understand you, in saying that you're
13 a type three juror, and you're now at this
14 point where you are going to have to evaluate
15 the evidence, to make a decision, because
16 you've already established beyond a reasonable
17 doubt that aggravating circumstance that gives
18 you the right to do that, it's my
19 understanding that 'yes', in your mind that
20 there are circumstances where you could
21 conceive and perceive that, 'yes, that would
22 warrant me imposing a death sentence.' I am
23 not asking you to tell me what they are but
24 they exist. Is that true?

25 A. Yes.

1 Q. Likewise, equally there are circumstances
2 in a murder situation where after hearing it
3 all, even though you could impose a death
4 sentence, you would say 'no, that is not the
5 most appropriate.' I believe in this setting
6 life imprisonment without the possibility of
7 parole, under these circumstances, is more
8 appropriate. You could pick between the two,
9 based on the circumstances?

10 A. Yes.

11 Q. It is very important, again, because
12 that's what the jury has to ultimately decide.
13 But, in addition to these aggravating
14 circumstances, and you'll hear some other
15 evidence that will deal with -- that will be
16 issues important for you to consider in
17 fashioning a sentence, but there are also --
18 the law also recognizes in this situation
19 something that -- some that will -- some of
20 which are defined by law, by statute, called
21 mitigating circumstances and some that are
22 nonstatutory, that are just common sense
23 mitigating circumstances.

24 The instruction would say that you are
25 to consider, meaningful consider, seriously

1 consider any mitigating circumstance,
2 statutory or non-statutory, and statutory --
3 there are a number of them, some of them are
4 such as the age of the person, their
5 upbringing as a child, if they have any
6 problems that occur, abuse situations or that
7 type of thing, mental health and emotional
8 issues, addiction issues.

9 Those types of situations, which the law
10 says 'Well, the aggravating circumstances have
11 elevated this murder to permit the jury to
12 consider the death penalty, these types of
13 circumstances tend to move it back towards the
14 norm.' In other words, will allow you to
15 consider and be a reason, if you wanted to
16 give one, to say that this doesn't warrant
17 that particular punishment, it rather warrants
18 life imprisonment without the possibility of
19 parole. Do you understand that?

20 A. Yes, sir.

21 Q. Or you may say, 'Well, I understand that
22 they exist but I still believe that the death
23 penalty is the most appropriate.' It doesn't
24 mandate a choice, it just simply is a factor
25 for you to consider. You'd be willing to give

1 due consideration to those mitigating
2 circumstances should they exist.

3 A. Yes, sir.

4 Q. That would be important to you in
5 fashioning a sentence, is that correct?

6 A. Yes, sir.

7 Q. I would also instruct you then in that
8 abstract case, of course, that the person
9 accused had no burden of proof whatsoever at
10 any stage, first or second. They don't have
11 to present anything, the law doesn't require
12 them to present any evidence, they don't even
13 have to testify. I would instruct you that
14 you could never use that against that person.
15 Would you have any problem following that
16 instruction?

17 A. No, sir.

18 Q. And that would be in that second phase,
19 because if the person accused in that abstract
20 case didn't present anything for your
21 consideration, no mitigating circumstances,
22 okay, you couldn't use that against them.
23 Would you honor that instruction?

24 A. Yes, sir.

25 Q. That's important, again, because that's

1 the law but it's important for this part of
2 the charge. Because, in addition to
3 everything that we have just talked about, I
4 would also instruct that jury that if you --
5 if you'd gotten to the point where you have
6 the option, you as the judge in this case
7 deciding a punishment have the right to impose
8 life imprisonment without the possibility of
9 parole for no reason whatsoever, if you choose
10 to. Okay?

11 A. (No verbal response).

12 Q. That means, given everything, you can
13 still say 'While I can impose a death
14 sentence, we just choose not to. Just because
15 we chose to do that.' Would you be able to
16 give meaningful consideration to that
17 instruction as well?

18 A. Absolutely.

19 Q. Okay. As I understand it, you would be
20 fair and impartial in performing all of these
21 tasks?

22 A. Yes, sir.

23 Q. If necessary, you could find a death
24 sentence if the situation warranted it, is
25 that correct?

1 A. Yes, sir.

2 Q. And that would mean that you would have to
3 sign a form that the court would have given
4 you, putting your name saying 'yes, this is
5 the sentence that I've decided.' You could do
6 that?

7 A. (Affirmative nod).

8 Q. And would do that?

9 A. (Affirmative nod).

10 Q. Is that a "yes"?

11 A. "Yes."

12 Q. Likewise, if you chose in a situation, you
13 could say, 'No, life imprisonment is the best
14 choice.'

15 A. (Affirmative nod).

16 Q. You'll pick between the two?

17 A. Yes.

18 Q. We will now stop with the abstract case.
19 Let's talk about Mr. Dickerson's case for just
20 a moment. Okay?

21 A. (Affirmative nod).

22 Q. As I mentioned to you, Mr. Dickerson has
23 been accused of a number of criminal offenses.
24 As I told you, there is a principle of law
25 that applies to Mr. Dickerson and to everybody

1 in this state that is accused of criminal
2 offenses; that is, they are presumed innocent.

3 A. Right.

4 Q. That presumption remains until and unless
5 the State were to convince you otherwise?
6 That is, would convince you beyond a reason-
7 able doubt that he is guilty of one or more of
8 those crimes?

9 A. Right.

10 Q. Do you have any problem with that
11 principle of law?

12 A. No, sir.

13 Q. Do you have any problem today as you look
14 at Mr. Dickerson, believing that he is
15 innocent of these charges?

16 A. No, sir. D

17 Q. And you would maintain that until the
18 court told you to begin your deliberations and
19 then after fully considering the evidence and
20 the law, if you were convinced then otherwise,
21 then you would change that position, is that
22 correct?

23 A. That's right.

24 Q. You would have to be convinced beyond a
25 reasonable doubt, do you understand?

1 A. Yes.

2 Q. And you believe, based on what you've
3 heard thus far, that there is nothing about
4 this case that would cause you any concern
5 about your ability to perform your tasks as a
6 juror, as we've talked about?

7 A. That's right.

8 Q. And you would likewise take the
9 instruction that I gave to you, the law, and
10 set aside any personal beliefs that you have,
11 apply it fairly and impartially?

12 A. Yes, sir.

13 THE COURT: Thank you so much.
14 If you would, answer any questions that the
15 attorneys may have. Anything?

16 BRUCE DURANT: I don't believe
17 that I have a whole lot, to tell you the
18 truth.

19 VOIR DIRE EXAMINATION

20 BY BRUCE DURANT:

21 Q. I just want to make sure of a couple of
22 things. I think I know this because of the
23 answer that you gave Judge Dennis. In an
24 appropriate case, where it would be the
25 collective decision of the jury to impose a

1 death sentence, could you sign your name to a
2 verdict form requiring a defendant to be put
3 to death?

4 A. I believe so, if it was proven without
5 reasonable doubt.

6 Q. I understand that but I need to know if it
7 is more than "believe so". Could you do that?
8 Could you set aside your personal -- any
9 personal misgivings that you have about it and
10 follow the judge's instructions if that were
11 the collective decision of the jury?

12 A. Yes.

13 THE COURT: What was the answer?

14 JUROR NUMBER 246: Yes.

15 EXAMINATION CONTINUED

16 BY BRUCE DURANT:

17 Q. I note on your questionnaire that you put
18 as your response to the death penalty question
19 as being "Undecided."

20 A. (Affirmative nod).

21 Q. I guess what my question is, are you
22 undecided whether or not the death penalty
23 would ever be an appropriate punishment or --
24 I am trying to figure out where you would be
25 on the spectrum of folks that think that the

1 death penalty is always appropriate and those
2 that think that it's never appropriate.

3 A. Right. I guess I hadn't really thought
4 about it a whole lot before now, so I just
5 didn't feel like I had thought about it enough
6 to put an accurate answer.

7 Q. Okay. But is it your opinion now that
8 based upon the questioning by Judge Dennis
9 that -- once again, in accordance with the
10 Judge's instruction you could find a verdict
11 of death in the appropriate case.

12 A. Yes, sir.

13 Q. And then if that appropriate case were
14 brought to you as a juror, you could sign your
15 name to a sentence imposing a sentence of
16 death?

17 A. Yes.

18 BRUCE DURANT: I have nothing
19 further. Thank you very much.

20 THE COURT: Mr. Bloom.

21 VOIR DIRE EXAMINATION

22 BY MR. BLOOM:

23 Q. Ms. Pridgen, my name is Jeff Bloom and
24 along with Andrew Carroll, who is out of the
25 courtroom right now, we represent William

1 Dickerson. I just have a few followup
2 questions.

3 A. Okay.

4 Q. I notice that you work at MUSC?

5 A. Yes, sir.

6 Q. There are some witnesses that work there
7 and I know that you didn't respond to knowing
8 them Friday, but I just wanted to make sure.
9 Do you know a Dr. Cynthia Schandl who works in
10 Pathology and does autopsies?

11 A. No, sir.

12 Q. And a Sandra Fokes who has in the past
13 worked in housekeeping or clerical duties?

14 A. No, sir.

15 Q. She has also gone by the name of Sandra
16 Jenkins?

17 A. No, sir.

18 Q. Or Sandra Dickerson?

19 A. No, sir.

20 Q. Just a few followups. You heard Judge
21 Dennis define murder to you. Some folks are
22 of the view that once they've found someone
23 guilty of murder, that malice murder, that
24 they are always going to vote for the death
25 penalty. Does that describe you or not?

1 A. No.

2 Q. You would still be open in the second
3 phase, as Judge Dennis described it, to
4 additional information that would come in?

5 A. Yes.

6 Q. Judge Dennis also described mitigating
7 circumstances and to orient you to that, it
8 would be things such as addictions, childhood
9 abuse, mental health issues; those are things
10 that you could consider?

11 A. Yes.

12 Q. You don't have any qualms or problems with
13 any of that kind, that would give you any
14 hesitation about that?

15 A. No.

16 Q. Because you understand that some people
17 focus, they want to hear about just what the
18 incident -- the crime was, nothing else. But
19 that doesn't describe you?

20 A. No.

21 Q. Lastly, ma'am, just to orient you, Judge
22 Dennis explained that this is a juror who
23 after they hear all those circumstances, have
24 listened to those instructions, in considering
25 the ultimate penalty as opposed to life

1 without parole, there is nothing in the law
2 that requires you to vote for that?

3 A. Yes.

4 Q. The law calls that a individualized,
5 reasoned moral judgment. Can you accept that?

6 A. Yes.

7 Q. And after you'd heard all that, listened
8 to Judge Dennis' instructions, considered all
9 the circumstances and you were discussing with
10 your fellow jurors, everybody has debated it,
11 you've listened to them, they've listened to
12 you, at the end of that process if eleven of
13 them were voting one way but you had your own
14 individualized, reasoned moral judgment, could
15 you hold to that?

16 A. Absolutely.

17 Q. You wouldn't just give that up and go home
18 because it was the dinner hour, go along to
19 get along?

20 A. No.

21 Q. You could ask them to respect your vote?

22 A. Yes.

23 Q. You would respect theirs?

24 A. Yes.

25 MR. BLOOM: Thank you, ma'am.

1 THE COURT: Any additional
2 questions, Mr. Durant?

3 BRUCE DURANT: No, sir.

4 THE COURT: Thank you very much,
5 Ms. Pridgen. If you would step out, we will
6 be with you momentarily?

7 JUROR NUMBER 246: Okay. I would
8 like to mention that my grandfather has taken
9 a turn for the worse. He's almost on his
10 deathbed right now. So if I am chosen, I
11 might have to leave at any time on a moment's
12 notice.

13 THE COURT: That is something that
14 is very, as it should be, much on your mind?

15 JUROR NUMBER 246: Yes.

16 THE COURT: Where is he? Here?

17 JUROR NUMBER 246: Columbia.

18 THE COURT: Columbia, and you'd
19 need to be with him or you'd like to be?

20 JUROR NUMBER 246: I don't need to be
21 with him right now but something could happen
22 and I'd want to ---

23 THE COURT: I understand. Thank
24 you very much for bringing that to our
25 attention.

1 JUROR NUMBER 246: Thank you.

2 (JUROR NUMBER 246 EXITS COURTROOM)

3 THE COURT: She's qualified but,
4 given that, I think that would be an
5 unnecessary risk, folks.

6 BRUCE DURANT: She is obviously
7 qualified, Your Honor. If she is selected,
8 maybe if she could be an alternate?

9 THE COURT: But we would lose an
10 alternate, that's my concern. I am willing to
11 do whatever you'all want to do. I'm not going
12 to inject myself into this one.

13 MR. BLOOM: We leave it in your
14 discretion, Your Honor.

15 THE COURT: Thank you.

16 SOLICITOR WILSON: Why don't we just
17 think about it and ---

18 THE COURT: No, I really -- I need
19 to tell her. I don't want her to come back
20 here if she is not going to have to come back.

21 SOLICITOR WILSON: I would ask that
22 she come back and if something happened she
23 could let us know.

24 THE COURT: All right. Think about
25 it overnight then, please. Have her step in,

1 please.

2 (JUROR NUMBER 246 ENTERS COURTROOM)

3 THE COURT: Thank you, Ms. Pridgen.

4 I appreciate it. Thank you for also -- I'm
5 sorry you're in that situation, as well. It's
6 not a pleasant one, a lot of us have to go
7 through it but that doesn't make it any easier
8 for you, nor should it, and please know that
9 our hearts go out to you and our prayers, to
10 you and your family too.

11 JUROR NUMBER 246: Thank you.

12 THE COURT: I would ask you to do
13 me a favor. Thank you very much, and I
14 appreciate your patience. You've been found
15 to be qualified to be a member of the panel
16 from which we will select our jury.

17 That is going to take place tomorrow
18 at 9:30. I would ask that you do me a favor.
19 If anything changes between now and then, you
20 just call the clerk's office and let them know
21 and they can make that known to me.

22 JUROR NUMBER 246: Okay.

23 THE COURT: Then I would take care
24 of that for you.

25 JUROR NUMBER 246: Thank you.

1 THE COURT: If it doesn't, then we
2 will revisit this tomorrow if necessary.
3 Maybe you will have good news tomorrow, maybe
4 something will turn around. I've seen that
5 happen with lots of people and I hope that's
6 the case with you.

7 Until then and until you have been
8 dismissed from this case, please remember that
9 you still are not at liberty to discuss this
10 case with anyone or permit anyone to talk with
11 you about it. Also, please continue not to
12 watch any news programs about it or read any
13 news accounts. Have a great day and we'll see
14 you, hopefully, in the morning.

15 Be here in this courtroom. Your
16 colleagues will be sitting out there. We will
17 go through that selection process first thing
18 in the morning.

19 JUROR NUMBER 246: Thank you.

20 THE COURT: Also tomorrow, unless
21 something changes, be prepared to stay if
22 necessary because we will start the trial
23 tomorrow. Okay?

24 JUROR NUMBER 246: Yes, sir.

25 (JUROR NUMBER 246 EXITS COURTROOM)

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.

1502

1 THE COURT: Number 331, please,
2 sir. Ms. Waters.

3 (JUROR NUMBER 331 ENTERS COURTROOM)

4 THE COURT: Good afternoon.

5 JUROR NUMBER 331: Hello.

6 THE COURT: How are you?

7 JUROR NUMBER 331: Okay.

8 THE COURT: Thank you for your
9 patience. We are going to continue that
10 process that we started on Friday. If you
11 will sit and pull yourself up so that you can
12 speak into that mic comfortably.

13 JUROR NUMBER 331: Okay.

14 THE COURT: The questions that we
15 started on Friday, as you probably recall and
16 discern, there are no correct answers to any
17 of these questions.

18 JUROR NUMBER 331: All right.

19 THE COURT: These questions, the
20 purpose is to help you and to help us
21 determine whether you can be a fair and
22 impartial juror in this case. Okay?

23 JUROR NUMBER 331: All right.

24 THE COURT: All that I ask that you
25 do is respond truthfully and candidly to the

1 questions. We are not here to change your
2 beliefs or philosophies. You're entitled to
3 them, don't feel like you have to defend them.
4 Okay?

5 JUROR NUMBER 331: All right.

6 THE COURT: Nor are we here to
7 invade your privacy. I assume you will be
8 truthful and candid, is that fair?

9 JUROR NUMBER 331: Yes.

10 THE COURT: I would remind you in
11 that regard that you are still under oath in
12 this matter. Okay?

13 JUROR NUMBER 331: Okay.

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

17 VOIR DIRE EXAMINATION

18 BY THE COURT:

19 Q. Would you please state your full name for
20 the record?

21 A. Renala Erica Waters.

22 Q. Since we were together on Friday, have you
23 talked with anyone, permitted anyone to talk
24 with you or to talk about it in your presence?

25 A. No, sir.

1 Q. Have you watched any news accounts or read
2 any newspaper articles about it?

3 A. No, sir.

4 Q. On Friday, I gave you a number of names
5 but I failed to mention two names that I need
6 to ask you about. Are you related by blood or
7 marriage, have any business dealings with or
8 socially or casually acquainted with either --
9 do you know or have any dealings with either
10 Jeff Osborne or Matt Casey?

11 A. No.

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

16 A. Right. I think I'm type number three.

17 Q. You are number three?

18 A. (Affirmative nod).

19 Q. You understand that that sheet shows
20 jurors who are involved, obviously, in the
21 sentencing in a murder trial.

22 A. Right.

23 Q. Obviously -- let's talk about jurors a
24 little bit. Let's talk about abstract jurors.
25 You said you would be a number three in that

1 case; is that right?

2 A. That's correct.

3 Q. At the point that you have in that
4 question and on that sheet, that jury and that
5 juror would have finished the first phase.

6 A. (Affirmative nod).

7 Q. They would have heard all the evidence
8 concerning the charge of murder. Do you
9 understand that?

10 A. (Affirmative nod).

11 Q. You would have been a part of a panel that
12 heard all of that and after considering all of
13 the evidence and the law had decided that the
14 State had met its burden of proof beyond a
15 reasonable doubt and the person that they'd
16 charged with murder was that person and the
17 crime was murder. Do you agree?

18 A. Yes, sir.

19 Q. Murder is the intentionally killing of
20 someone with malice aforethought. In this
21 state there are other charges that are called
22 lesser charges of murder; one is manslaughter
23 and the other is involuntary manslaughter.
24 Manslaughter is when someone acts out of --
25 they were provoked and they are acting out of

1 anger, hostility in response to that.

2 Involuntary manslaughter is when somebody
3 was acting recklessly, that type of situation.

4 Neither of those are murder.

5 So you would have concluded and ruled
6 those out. Those aren't even part of the
7 equation. What you have to determine is
8 someone, with an evil spirit -- that is what
9 malice is, evil thoughts, they went and killed
10 somebody, they intended to kill them, wasn't
11 any mistake, no self-defense, nothing to
12 justify it, no rational basis for them taking
13 that action. Okay?

14 A. (Affirmative nod).

15 Q. And you'd decided that beyond a reasonable
16 doubt at this point. Okay?

17 A. Okay.

18 Q. Do I understand that you, as a type three
19 juror, you are about to start, you're about to
20 go into the second phase where you are going
21 to hear some evidence now in addition to what
22 you've heard in the first but this is evidence
23 that specifically will deal with the
24 sentencing, which one is the most appropriate.
25 At this point you have an open mind, is that

1 right?

2 A. That's right.

3 Q. As I understand, that open mind would not
4 change until you've heard all the evidence and
5 the law in the second phase.

6 A. That's correct.

7 Q. That's very important because -- let's
8 talk about the jury in general. When you were
9 picked, that's what you would have had to say
10 and be. Obviously you would have convinced
11 everyone, the court and the persons who were
12 selected, that you were that that type of
13 juror; that is, one that would have an open
14 mind, not predetermine any issues and, at the
15 appropriate time apply your common sense, your
16 sense of reasoning. I assume you would have
17 done all of that in the first phase in that
18 situation. Is that correct?

19 A. That's correct.

20 Q. And now you're ready to perform it again
21 in the second phase but you haven't heard any
22 evidence yet, so you don't have any decision.
23 You have that open mind. You're not
24 influenced at all -- by that, I mean you're
25 certainly expected to consider what you've

1 heard in the first but that doesn't control in
2 any way what you believe the sentence, just
3 the crime itself. Is that correct?

4 A. That is correct.

5 Q. That's important. It's important because
6 that's the law. It's important for a lot of
7 number of other reasons, and I want to talk to
8 you about them now. Number one, typically a
9 jury in this state is involved with
10 sentencing. Do you understand that?

11 A. All right.

12 Q. Normally a jury sits and makes the
13 determination of whether or not the State has
14 proven the offense and -- in that abstract
15 case. In a typical setting for a verdict of
16 murder, that would have it; you would have
17 been excused; and, the judge would then impose
18 the sentence for that offense. Normally the
19 judge cannot impose any sentence greater than
20 life imprisonment without the possibility of
21 parole. He doesn't have to, it could be a
22 lesser sentence but that's the maximum
23 sentence that the judge could impose. He
24 could never impose a death sentence. Okay?

25 A. (Affirmative nod).

1 Q. Our state has provided in some situations
2 where the State goes on to prove something
3 else that is critical for that to happen, they
4 have to prove the existence beyond a
5 reasonable doubt of at least one aggravating
6 circumstances. They have to prove it to that
7 standard of beyond a reasonable doubt.

8 That's part of the evidence that you'll
9 hear in the second phase. So it's good that
10 you haven't made a decision because,
11 obviously, type one and type two jurors,
12 they've already violated their oath in the
13 sense that they've been picked because they
14 already have a predetermination of what the
15 sentence should be. Would you agree with
16 that?

17 A. Yes, sir.

18 Q. And that is not you?

19 A. No.

20 Q. Part of the instruction that I would give
21 to you after you've heard all of the evidence
22 in the second phase is, unless the jury finds
23 beyond a reasonable doubt the existence of
24 aggravating circumstance, you can't even
25 consider a death penalty. The only sentence

1 that the jury can impose is life without
2 parole. Do you understand that?

3 A. (Affirmative nod).

4 Q. Would you have any problem following that
5 instruction?

6 A. No.

7 Q. All right. Now, I would also advise --
8 and, aggravating circumstances, there are
9 many. Just to give you an example, the
10 killing of a police officer or the killing of
11 a child, the jury would have to conclude that
12 that existed beyond a reasonable doubt before
13 considering -- and there are many others, but
14 that's just to give you an example of one.
15 Assuming just for the sake of our discussion
16 in this abstract case that you, as a member of
17 the jury concluded that the State had met its
18 burden of proof and established at least one
19 aggravating circumstance, the charge would go
20 on to say if that happened then, and only
21 then, would the jury have the option of
22 considering death in addition to life. I
23 would instruct you that you are not required
24 to return a death sentence. The court will
25 never tell you that you must return a death

1 sentence in that setting, do you understand
2 that?

3 A. Okay.

4 Q. Because that is totally left up to you as
5 the judge of the facts in that case.

6 A. Okay.

7 Q. It is my understanding that as a type
8 three juror that if you had gotten to that
9 point, then you be able to apply that common
10 sense, that sense of logic and reasoning
11 fairly and impartially and make a
12 determination considering all the facts and
13 circumstances and in applying the law fairly
14 and impartially reach a decision in that
15 abstract case. That is that there are some
16 circumstances where you would say the death
17 sentence is one that you would give and that
18 there are some circumstances that even though
19 you could return a death sentence, you would
20 chose to say, 'No, the most appropriate
21 sentence is life imprisonment without the
22 possibility of parole.'

23 But you don't know which one that it would
24 be until you've heard it all.

25 A. Right.

1 Q. That's correct?

2 A. Um-humm.

3 Q. There are other aspects of my charge and
4 it's important that you answered that because
5 there are a number of things that the court
6 would instruct you to consider.

7 Of course, you would consider the evidence
8 of aggravating circumstances, and there would
9 be other evidence that you be expected to
10 consider, weigh, give weight to.

11 I would instruct you also if there are
12 mitigating circumstances and I defined some of
13 those are nonstatutory; in other words, common
14 sense mitigating circumstances. Those are
15 simply factors that our law recognizes that
16 while this charge of murder, because of this
17 aggravating circumstance has been elevated to
18 allow you to consider a death penalty. These
19 are circumstances that tend to move it back in
20 the other direction.

21 In other words, gives the jury some
22 explanation as to why someone may have done
23 what they did. It doesn't excuse what they
24 did but just gives you some rationale, some
25 understanding of that person; such as

1 addictions, drugs addictions, where they
2 function under some impairment from that;
3 their life's history and how they were raised,
4 problems growing up, maybe child abuse and
5 that type of thing. A number of factors that
6 you may be asked to consider. But if they
7 exist, the court would instruct you that you
8 must give meaningful consideration to those
9 mitigating circumstances before deciding on a
10 sentence. I assume that you would be able to
11 follow that, as well?

12 A. (Affirmative nod).

13 Q. You would consider that important to you
14 in fashioning a sentence, is that correct?

15 A. (Affirmative nod).

16 Q. And you would be willing to weigh all of
17 that before making a final determination; is
18 that true?

19 A. I would.

20 Q. I have also instructed you in, in the
21 first phrase and the second phrase that persons
22 accused of criminal offenses have no
23 responsibility to prove anything, they don't
24 have to prove any evidence, they don't have to
25 present any evidence, they don't have to

1 testify. If they choose not to present
2 anything or not to testify, you don't have any
3 -- you may not consider that against them for
4 any reason whatsoever. Would you have any
5 problem following that?

6 A. No, sir.

7 Q. So that wouldn't include the second phase.
8 If there were no mitigating circumstances for
9 your consideration, you can't hold that
10 against them. Would you have problems
11 following that instruction?

12 A. No.

13 Q. That is important because that's the law
14 but it is always important because another
15 part of the charge could be -- notwithstanding
16 that you found aggravating circumstances and,
17 therefore, have the right to consider and
18 impose the death sentence, you would have the
19 right on that jury to impose life imprisonment
20 without the possibility of parole for no
21 reason whatsoever. In other words, if you
22 just say 'I just choose to do that.' The
23 reason I choose to do so is because I just
24 choose to -- in other words, no reason.

25 You would be able to consider those

1 options, as well; is that correct?

2 A. I would.

3 Q. In other words, that's the right of a
4 jury.

5 A. Okay -- uh, -- yeah.

6 Q. And it is my understanding that you would
7 be able to consider all of those situations
8 and make a determination about what's fair and
9 just. It may be death or it may be life
10 imprisonment without the possibility of parole
11 but until you've heard it all, you can't tell
12 me; is that correct?

13 A. That's correct.

14 Q. But you can tell me without any question
15 or reservation that you could be fair in
16 applying your common sense, your sense of
17 logic and reason; is that true?

18 A. (Affirmative nod).

19 Q. And you would follow any instruction
20 setting aside any personal feelings and strong
21 feelings that you may have? Is that correct?

22 A. That's correct.

23 Q. Even though it may not be the most
24 pleasant thing you've ever had to do?

25 A. That's correct.

1 Q. Let's -- we're finished with the abstract
2 case. Let's talk about Mr. Dickerson for a
3 moment. As I mentioned to you Friday, he's
4 been accused of a number of charges. He, as
5 anybody charged with criminal offenses in this
6 state or country is presumed innocent. You, I
7 believe, didn't have any problem with that
8 principle of law; is that correct?

9 A. That's correct.

10 Q. And it is an active presumption. It means
11 that until and unless that person is convicted
12 of that offense, you have to see him or her as
13 being innocent. Do you have any problems
14 today as you look at Mr. Dickerson considering
15 him to be totally innocent of these charges?

16 A. (Negative gesture), no problem at all.

17 Q. You, as a juror, if you were picked in
18 this case would have to continue with that
19 position until you began your deliberations
20 and, after considering the evidence, if you
21 were convinced beyond a reasonable doubt
22 otherwise -- that is, that the State
23 established each of those elements required
24 beyond a reasonable doubt, then and only then
25 could you then say 'No, he is not. He's

1 guilty of this particular offense.' Do you
2 understand that?

3 A. Yes.

4 Q. And you could do that and be fair and
5 impartial in performing that task?

6 A. Yes.

7 Q. Again, if you were in this case you would
8 follow any instruction that I gave you and
9 apply that fairly and impartially; is that
10 correct?

11 A. Yes.

12 THE COURT: Thank so much. Please
13 answer any questions that the attorneys may
14 have.

15 VOIR DIRE EXAMINATION

16 BY MR. BLOOM:

17 Q. Good afternoon, Ms. Waters. How are you
18 today?

19 A. I'm fine. How are you?

20 Q. Good. My name is Jeff Bloom and along
21 with Andrew Carroll, who is out of the
22 courtroom right now, we represent William
23 Dickerson. I just have a few followup
24 questions from what Judge Dennis asked you.
25 Okay?

1 A. Okay.

2 Q. First of all, I noticed that you work at
3 MUSC?

4 A. That's right.

5 Q. I know the Judge called their names
6 Friday, but I just wanted to double check to
7 see if you know them.

8 A. Okay.

9 Q. One is Dr. Cynthia Schandl, who works in
10 the Pathology department, does autopsies?

11 A. No, I am not familiar ---

12 Q. You don't have any connection with that
13 department?

14 A. No.

15 Q. The other is Sandra Fokes, who in the past
16 I believe was working in housekeeping,
17 sometimes clerical, ward duties?

18 A. No, sir.

19 Q. She has sometimes gone by a different last
20 name, Sandra Jenkins?

21 A. No.

22 Q. Or Sandra Dickerson?

23 A. (Negative gesture).

24 Q. Okay. Thank you If we were to be chatting
25 and somehow a discussion of the death penalty

1 came up, if I turned to you and asked, 'What
2 is your general opinion of the death penalty?,
3 what would that be?

4 A. My general opinion about the death penalty
5 is that it is necessary. I think that it
6 shouldn't have to happen but I will vote for
7 it.

8 Q. If the Judge defined murder to you, a
9 malice murder, that means that just because
10 you found a person guilty of that type of
11 malice murder that you're going to
12 automatically vote for the death penalty?

13 A. No.

14 Q. Okay. When you use the word necessary, I
15 am pretty sure I understand what you mean but
16 I don't want to assume. Can you just explain
17 to me what you mean by necessary?

18 A. It's more of being a deterrent, but it's
19 necessary.

20 Q. Judge Dennis also gave you some
21 information about the law and there was one
22 instruction that he was talking about and --
23 and I know some of this is new. You've never
24 sat in this kind of case before, have you?

25 A. No.

1 Q. I didn't think so. But the Judge
2 explained to you just now that one of the
3 instructions that he will give a jury when
4 you're trying to decide, after you've heard
5 everything and you're trying to decide between
6 the ultimate punishment and life without
7 parole, the jury is told you can vote for life
8 without parole for any reason, for no reason
9 or as a simple act of mercy. Do you remember
10 the Judge telling you that?

11 A. Right.

12 Q. And he asked you if you could follow that
13 and you had a pause in there and I just wanted
14 to ask you if there is some concern or problem
15 or why you may have paused at that point in
16 time.

17 A. I mean, that's not something that you
18 would want to do but it's -- just to think
19 about it. It's not something that you think
20 about every day, just something that was new
21 to me.

22 Q. Okay. With that instruction, even though
23 that's new to you -- obviously, to be fair to
24 you, because you've never been in that
25 situation, you could follow that type of

1 instruction?

2 A. Right.

3 Q. Okay. The law also calls that, once
4 you've reach your vote or verdict your
5 individualized, reasoned moral judgment. Can
6 you make that?

7 A. Yes.

8 Q. Again, that's after you've heard all the
9 evidence and followed the Judge's instruction?

10 A. (Affirmative nod).

11 Q. And you understand that there is nothing
12 in the law, as Judge Dennis, explained that
13 would require a juror to vote for the ultimate
14 punishment?

15 A. Right.

16 Q. Okay. In that vein, once you've heard all
17 the evidence, all the circumstances, the law
18 that Judge Dennis just read to you, including
19 the one about mercy, after you've deliberated
20 and discussed it with all the fellow jurors,
21 if you were in that situation and you'd
22 listened to them and they'd listened to you,
23 can you come to that individualized and
24 reasoned moral judgment for yourself?

25 A. I can.

1 Q. And if eleven jurors were voting one way
2 and you were voting another way, after you'd
3 reached that reasoned, moral and
4 individualized judgment, could you stay your
5 ground if that is what you felt was right?

6 A. Absolutely.

7 Q. You are not just going to fold and say,
8 'it's time to go home to dinner and give up
9 your vote.'

10 A. (Negative gesture).

11 Q. You didn't strike me as that person but
12 you know that I have to ask.

13 A. (Affirmative nod).

14 Q. You would ask the other jurors to respect
15 your vote?

16 A. Yes.

17 Q. And you would respect theirs?

18 A. Absolutely.

19 MR. BLOOM: Thank you very much,
20 ma'am.

21 THE COURT: Thank you, Mr. Bloom.

22 VOIR DIRE EXAMINATION

23 BY BRUCE DURANT:

24 Q. Hello, Ms. Waters. I'm Bruce Durant,
25 Deputy Solicitor. This is Scarlet Wilson, she

1 is the Solicitor. This is Rutledge Durant.

2 We'll be handling this case on behalf of the
3 State of South Carolina. I notice that you
4 were a Psychology major.

5 A. Yes, sir.

6 Q. Have you kept up your interest in
7 Psychology?

8 A. I don't quite seem to be able to do that.

9 Q. I can certainly understand that. Do you
10 think your educational background might have
11 any effect on your ability to be a fair and
12 impartial juror when it comes to evaluating
13 aggravating circumstances or mitigating
14 circumstances?

15 A. I mean, it has an impact on everything
16 that I do. Whether it would impact me being
17 fair or not, I don't think so. No.

18 Q. Okay. How do you think that it would
19 impact you?

20 A. It would probably give me a little edge on
21 understanding a lot more -- like I've seen
22 both -- well, (pause).

23 Q. Well, let me ask you this question, do you
24 think -- do you think you could set your
25 personal feelings aside and evaluate a case

1 based solely on the evidence and the law as
2 the Judge would charge it to you?

3 A. Yes.

4 Q. If that -- if doing that led the jury to
5 the conclusion in a particular case that the
6 appropriate sentence would be a sentence of
7 death, could you as a juror sign your name to
8 a verdict form requiring someone to be put to
9 death?

10 A. Yes.

11 BRUCE DURANT: I have nothing
12 further. Thank you very much.

13 THE COURT: Thank you. Mr. Bloom,
14 anything else?

15 MR. BLOOM: No, Your Honor.

16 THE COURT: Let me just follow up
17 on something that was said. I appreciate it
18 and I understand exactly what Mr. Durant was
19 saying. And you answered it very
20 appropriately.

21 One of the things that you're
22 expected to do, of course, is to apply your
23 life's experience, sense of logic and
24 reasoning and your knowledge. So you are
25 expected to us what you've been trained and

1 what you've studied. The question that I have
2 is, in analyzing the evidence, and in deciding
3 what you believe to be the truth, will you
4 apply that knowledge fairly and impartially?

5 JUROR NUMBER 331: Absolutely. Yes.

6 THE COURT: That's what you are
7 expected to do. You would do that, is that
8 correct?

9 JUROR NUMBER 331: That's correct.

10 THE COURT: If you would please
11 step out and -- excuse, any additional
12 questions from the State or ---

13 BRUCE DURANT: No, sir.

14 MR. BLOOM: (Negative gesture).

15 THE COURT: If you will step out
16 for just a moment, we will be with you. I
17 have to discuss some things with the
18 attorneys.

19 (JUROR NUMBER 331 EXITS COURTROOM)

20 THE COURT: I find Ms. Waters to be
21 qualified. Any objection, Mr. Durant?

22 BRUCE DURANT: No, sir.

23 THE COURT: Any objection, Mr.
24 Bloom?

25 MR. BLOOM: No objection.

1 THE COURT: Please ask her to step
2 in, please.

3 (JUROR NUMBER 331 ENTERS COURTROOM)

4 THE COURT: Thank you, Ms. Waters.
5 I appreciate your patience and we're -- you've
6 almost finished. We find that you're
7 qualified to be a member of the panel from
8 which we will select our jury. That process
9 will take place tomorrow morning at 9:30 in
10 this courtroom, so we need you to be present
11 at 9:30. If you will, come directly to the
12 courtroom this time, there'll be jurors
13 sitting out in the audience tomorrow. If you
14 will just take a seat there, we will start
15 that process.

16 I don't think that it will take that
17 long, but whenever we finish the process we
18 will start into the trial of the case. So
19 please be prepared to stay tomorrow, if
20 necessary, because we won't taken any more
21 breaks, we'll move right into the process.

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

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

5 JUROR NUMBER 331: Yes, sir.

6 (JUROR NUMBER 331 EXITS COURTROOM)

7 THE COURT: Juror 264.

8 (JUROR NUMBER 264 ENTERS COURTROOM)

9 THE COURT: Hello, Mr. Sanders.
10 How are your?

11 JUROR NUMBER 264: Fine.

12 THE COURT: If you will sit and
13 pull yourself up so that you can speak into
14 that mic comfortably. We appreciate your
15 patience. We're continuing that process that
16 we started on Friday. In that regard, you
17 remember that we were asking questions -- and
18 you remember me saying, as you've probably
19 discerned, there are no "correct" answers to
20 any of these questions. I have some questions
21 that I need to ask of you and the attorneys
22 may have some questions as well. Simply the
23 only thing that we ask is that you truthfully
24 respond to the questions, that you fully
25 respond to the questions and that you candidly

1 respond to the questions.

2 JUROR NUMBER 264: Yes, sir.

3 THE COURT: Will you do that, sir?

4 JUROR NUMBER 264: Yes, sir.

5 THE COURT: And please understand
6 something else. There are no correct answers,
7 as I stated, nor are you being challenged for
8 any of your beliefs. You're entitled to your
9 beliefs. Don't feel as though you have to
10 defend those beliefs, because we recognize
11 that and do not in any way challenge any
12 beliefs that you may have. Okay?

13 JUROR NUMBER 264: Okay.

14 THE COURT: Nor are we here to
15 invade any privacy issues either.

16 I would remind you, sir, that you are
17 still under oath.

18 JUROR NUMBER 264: Yes, sir.

19 RODNEY SANDERS, being duly sworn to
20 tell the truth, the whole truth and nothing
21 but the truth, testified, as follows:

22 VOIR DIRE EXAMINATION

23 BY THE COURT:

24 Q. Since we were together on Friday, have you
25 talked with anyone, permitted anyone to talk

1 with you -- talked to anyone, permitted anyone
2 to talk to you about this case or talk about
3 it in your presence?

4 A. No, sir.

5 Q. Have you watched any news accounts or read
6 any newspaper articles about it?

7 A. No.

8 Q. On Friday, I mentioned a number of names
9 but I failed to mention two names that I need
10 to ask you about. Are you related by blood or
11 marriage, have any business dealings with or
12 socially or casually acquainted with or have
13 any dealings with either a Jeff Osborne or a
14 Matt Casey?

15 A. No.

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

19 A. Yes.

20 Q. Which type most accurately describes you?

21 A. I would go with number three.

22 Q. Let's talk about that for just a few
23 moments. Obviously that sheet described a
24 juror who is involved in a murder trial in
25 which the jury is going to make a

1 determination of what the sheet will be. Do
2 you agree?

3 A. Yes.

4 Q. Obviously at this point in the trial the
5 person accused has been found guilty of
6 murder. Okay.

7 A. Okay.

8 Q. You would have been a part of that Jury
9 panel?

10 A. Yes.

11 Q. All right. Am I to understand from being
12 a type three juror that at this point you
13 haven't heard any evidence yet about what the
14 appropriate sentence would be.

15 A. No.

16 Q. Okay. You've only tried the first part of
17 the case. Am I to understand that you at this
18 point do not have an opinion about what the
19 appropriate sentence is to be?

20 A. No.

21 Q. Okay. That's good, and let's talk about
22 why. First of all, when you started this
23 case, this abstract case, you would have made
24 a commitment to the court and to all the
25 parties that you had an open mind.

1 A. (Affirmative nod).

2 Q. That you hadn't predetermined anything.

3 A. No.

4 Q. And that you would wait until you were
5 instructed by the court to begin your
6 deliberations to change that position. In
7 other words, you would keep that open mind?

8 A. (Affirmative nod).

9 Q. And furthermore that you would and could
10 at the appropriate time apply your common
11 sense, your sense of logic and reason, and
12 decide from the evidence what you believe to
13 be the true facts. Then once you decide that,
14 you would take the law and apply that law
15 fairly to those facts?

16 A. Yes, sir.

17 Q. That would have already been demonstrated
18 at the first phase, wouldn't have it? Because
19 you would have had an open mind about the
20 person accused, you wouldn't have had any
21 predetermination, but you would -- you and the
22 other jurors would have considered all the
23 evidence that the State presented about the
24 person that committed this crime, allegedly,
25 and you have concluded that the State was

1 correct, that this was the person. They got
2 the right person, the crime was murder. Okay?

3 A. Okay.

4 Q. Let's talk about what murder means.

5 Murder means the killing of another person in
6 this state with malice aforethought. That
7 means that it is a malicious murder, there was
8 no rational reason for it, no justification.
9 They wanted to kill somebody, with evil
10 intent, an evil-spirit and they went and got
11 him and did it.

12 It would rule out, in this state there are
13 two other charges that can be considered in a
14 murder case, typically. Typically that can be
15 considered. One is called manslaughter, which
16 is the killing of another in the sudden heat
17 of passion. In other words, they were
18 provoked to do something. Or involuntary
19 manslaughter, which can be the killing of
20 somebody by reckless action by somebody.

21 Okay?

22 A. (Affirmative nod).

23 Q. You've ruled those two out. They don't
24 apply. What you've determined is that this is
25 murder. No question about it. Okay?

1 A. (No verbal response).

2 Q. Okay? Do you agree with that?

3 A. Yes, sir.

4 Q. And -- no self-defense. As I stated, no
5 justification for doing it. No mistake. This
6 is the man.

7 As I understand, having said all of that,
8 you still have that open mind.. Is that
9 correct?

10 A. Yes.

11 Q. Because you would have promised everybody,
12 before you started, that you didn't have any
13 predetermination of what the appropriate
14 sentence would be. Correct?

15 A. Yes, sir.

16 Q. Obviously type one and type two, they may
17 -- they haven't honored the oath that they
18 took in that setting if they're sitting on
19 your jury. Have they?

20 A. Yes.

21 Q. Because why?

22 A. (No verbal response). Well, ---

23 Q. If you're type one, haven't you already
24 decided?

25 A. I -- (pause).

1 Q. I am saying, if that juror who is on there
2 says, 'I believe that it is a death penalty' -
3 - because he's already decided.

4 A. Yes.

5 Q. Because he's already decided, he hasn't
6 even gone through the second phase; do you
7 agree with that?

8 A. Yes.

9 Q. That's not correct, that's not the way
10 that a juror should be. Correct?

11 A. Yes.

12 Q. The second juror says, 'Well, we've
13 convicted them of murder. I believe that it is
14 life imprisonment and that's the only thing
15 that it can be.' Do you agree that that juror
16 has not necessarily been honest with his oath?

17 A. Yes, sir.

18 Q. Because he's already determined.

19 A. Um-humm.

20 Q. You would be the one that hadn't done
21 that?

22 A. No.

23 Q. All right, sir. The second phase would be
24 when you would hear the evidence, which is
25 very important, to determining the sentence

1 because, generally, Mr. Sanders, the jury
2 doesn't determine the sentence in a murder
3 case in this state. Do you understand that?

4 A. Okay.

5 Q. Normally what happened in that case,
6 typically, for a charge of murder the jury
7 would have heard the state's presentation,
8 made a determination that, 'yeah, you got the
9 right person and it was murder.' The judge in
10 that case would have said, 'Thank you, Mr.
11 Sanders, you're free to leave.' The judge
12 would have imposed the sentence. Typically.
13 Okay?

14 A. Okay.

15 Q. Normally the maximum that the judge could
16 consider would be life without parole. He
17 doesn't have to because there are -- he could
18 impose a lesser sentence than life, but that
19 would be the maximum. The judge couldn't even
20 consider a death sentence. Do you understand
21 that?

22 A. Um-humm.

23 Q. Our law says that the reason this jury can
24 consider it, maybe, is because of what is
25 going to happen in the second phase. Part of

1 the second phase, one aspect that you would
2 have to consider in fashioning a sentence, is
3 whether or not the State proves aggravating
4 circumstances, at least one. Because in this
5 state, unless they prove that beyond a
6 reasonable doubt, the only sentence that you
7 can consider would be life imprisonment
8 without the possibility of parole. Do you
9 understand that?

10 A. Yes.

11 Q. Would you have any problem if you were on
12 that juror and I instructed you of that, in
13 following that instruction? In other words,
14 the State has to first convince you of an
15 aggravating circumstance before you can even
16 consider a death sentence?

17 A. Yes, I understand.

18 Q. So you would follow that instruction?

19 A. Yes.

20 Q. Let's talk a minute about the aggravating
21 circumstances. There are a number of them and
22 there is no need for me to discuss all of them
23 now with you but I would tell you, just for
24 purposes of our discussion about this abstract
25 case, the killing of a police officer is one

1 or the killing of a child is one. If the
2 State were to prove that beyond a reasonable
3 doubt, then -- and you found that as a member
4 of the jury, then and only then would you be
5 able to consider a death sentence. Do you
6 understand that?

7 A. (Affirmative nod).

8 Q. I would also instruct you that if you
9 found an aggravating circumstance beyond a
10 reasonable doubt you still wouldn't have to
11 return a death penalty. In other words, it's
12 just now an option for you -- which before
13 wouldn't have been an option, because that has
14 to exist before it is an option. Do you
15 understand that?

16 A. Yes.

17 Q. As a type three juror, as I understand, at
18 this point you've established beyond a
19 reasonable doubt that an aggravating
20 circumstance exists and now you have an option
21 between the two. You as a type three juror
22 would have and would have to be able to
23 analyze the evidence that you heard in the
24 second phase, together with the evidence in
25 the first phase, and come to a decision in

1 that case of what you think the appropriate
2 sentence would be.

3 There are circumstances in your mind that
4 you could think of that would cause you to
5 say, 'Yeah, this one needs to be a death
6 sentence.' Is that true?

7 A. (Pause) -- uh, -- (pause).

8 Q. I'm not asking you to tell me what they
9 are. I am just saying, 'Are there
10 circumstances in your mind that ---

11 A. Oh, no.

12

13 Q. --- would warrant you finding a death
14 sentence?

15 A. No.

16 Q. None?

17 A. None.

18 Q. So am I to understand you, at this point
19 notwithstanding that fact that I've instructed
20 you to say, 'Mr. Sanders, you don't have to
21 agree with the law but you have to set aside
22 any strong feelings that you have or belief
23 that you have and follow the law.' That means
24 to fairly consider it and if there -- if after
25 considering it you determined that a death

1 sentence is warranted, you would have to
2 impose that. Am I to understand you that
3 there would never be a situation where you
4 could follow that instruction?

5 A. Yes.

6 Q. 'Yes' there is or 'yes, there's no such
7 situation.'

8 A. Well, yes, there's no such situation.

9 Q. It doesn't exist?

10 A. (Negative gesture), it doesn't exist.

11 Q. So it doesn't matter what the situation
12 is, there would never be a time when you could
13 impose a death sentence?

14 A. No.

15 Q. So your choice, given that option between
16 a death sentence and life imprisonment, your
17 choice would always be life imprisonment?

18 A. Yes, sir.

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

22 VOIR DIRE EXAMINATION

23 BY BRUCE DURANT:

24 Q. Hello, Mr. Sanders. I'm Bruce Durant, I'm
25 the Deputy Solicitor. This is Scarlet Wilson,

1 she's the Solicitor. This is Rutledge Durant,
2 he's an Assistant Solicitor. We will be
3 handling this case. I just want to be clear
4 on this. You're against the death penalty.
5 Is that correct?

6 A. Yes.

7 Q. In all cases, is that correct?

8 A. Yes.

9 Q. And you could never impose the death
10 penalty until any circumstances, is that
11 correct?

12 A. Yes.

13 BRUCE DURANT: I don't think that
14 I have any other questions.

15 THE COURT: Thank you, sir.

16 VOIR DIRE EXAMINATION

17 MR. BLOOM:

18 Q. Mr. Sanders, I just want to make sure that
19 I understand you. You could never set that
20 strong view aside and follow the judge's
21 instructions and listen to the all the
22 evidence and in your mind, if the
23 circumstances warranted it, ever vote to
24 impose the death sentence?

25 A. Well, I don't believe in -- because of my

1 religion, I am a Methodist, and I don't
2 believe in taking a life.

3 Q. Thank you very much. So that's a belief
4 based on your ---

5 A. That's just my belief.

6 Q. Based on your religion and faith?

7 A. Yes, sir.

8 MR. BLOOM: Thank you, sir.

9 THE COURT: Thank you very much.

10 As I mentioned to you, Mr. Sanders, you're
11 entitled to those beliefs and no one is going
12 to ask you to change your mind, sir. I am
13 going to excuse you from any further
14 participation in this. You have completed
15 your service. I appreciate your being a part
16 of the process. Have a great day, sir.

17 JUROR NUMBER 264: Thank you.

18 (JUROR NUMBER 264 EXITS COURTROOM)

19 THE COURT: From the State's
20 standpoint -- I find Mr. Sanders to be not
21 qualified because of his inability to follow
22 the instructions in that his beliefs would
23 substantially impair his performance of duty
24 as a juror, consistent with his oath and the
25 law. Any objection from the State?

1 BRUCE DURANT: The State would
2 agree with you, Your Honor.

3 THE COURT: Mr. Bloom?

4 MR. BLOOM: Your Honor, please note
5 our objection to with the other similar
6 jurors: First, Eighth and Fourteenth
7 Amendments.

8 THE COURT: Absolutely, sir. Thank
9 you very much. Let's take about five minutes
10 and then we will be back.

11 (BRIEF RECESS)

12 (DEFENDANT PRESENT)

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

16 SOLICITOR WILSON: Yes, sir.

17 THE COURT: Defense ready?

18 MR. BLOOM: Yes, Your Honor.

19 THE COURT: Mr. Bloom? Mr. Durant?
20 I was thinking back there -- and you've talked
21 about it, you'all have mentioned it, and I
22 know it as a lawyer. We get in the world of
23 "yes". I don't know why I didn't think of
24 this before, because it just makes sense to me
25 but I -- I choose to believe this rather than

1 the cynical reason, and that is that Mr.
2 Sanders really didn't understand what he was
3 saying when he said he was a type three juror.
4 I don't think he was trying to mislead us
5 intentionally. I think he just didn't
6 understand.

7 MR. BLOOM: I agree that they don't
8 understand the process.

9 THE COURT: So what I am going to
10 start doing is this, because you'all have
11 pointed out something and I know it, too.
12 It's cross-examination from my standpoint,
13 which means "yes" or "no." I am going to
14 start asking a juror, 'What does that mean to
15 you?'

16 Now, the reason I am reluctant to
17 doing that, I don't know what they are going
18 to say to that question. That might open
19 Pandora's Box, and that's my -- that's been my
20 reluctance to do it. But I just wonder if
21 that isn't a better way to get to what we all
22 are looking for.

23 MR. BLOOM: In terms of what a type
24 three juror means to them?

25 THE COURT: Yes, when they -- what

1 does that mean?

2 MR. BLOOM: I think that is a very
3 valid question. We have no objection to that.

4 THE COURT: Does the State have an
5 objection?

6 BRUCE DURANT: No.

7 THE COURT: It may open -- they may
8 say some things that they're not supposed --
9 that under our law that the Court has said
10 'no, no, you can't ask that question.'

11 SOLICITOR WILSON: I think, in my
12 observation the issue has been a literacy
13 issue when we've had it.

14 THE COURT: I agree with you. To
15 me, I think I would like to hear them
16 articulate what that means. That will then
17 allow me to ask followup questions but at
18 least we all have had the benefit, rather than
19 go through a litany of questions to get to the
20 last one and then say, 'Oh, no, I could never
21 do that.' Okay?

22 BRUCE DURANT: Fine with us, Your
23 Honor.

24 THE COURT: And you have no
25 objection, Mr. Bloom?

1 MR. BLOOM: None at all. No.

2 THE COURT: Thank you very much.

3 That's what we will do from this day forth,
4 and I will try to make a note to put that in
5 my notebook that that is what I intend to do
6 in the future. I don't know why I didn't
7 think about doing it before. I guess I'm just
8 a slower learner.

9 Are we ready? Bring in Ms.
10 Setzehorn.

11 (JUROR NUMBER 272 ENTERS COURTROOM)

12 THE COURT: Good afternoon.

13 JUROR NUMBER 272: Good afternoon.

14 THE COURT: I know you are probably
15 waiting and I apologize for the length of
16 time. This process, we do the best that we
17 can staying on time but -- certainly, I'm
18 sorry. Thank you for your patience.

19 Would you please state your full name
20 for the record?

21 JUROR NUMBER 272: Donna Elaine
22 Setzehorn.

23 THE COURT: Thank you very much for
24 being here. We are here to continue the
25 process that we started yesterday. I am going

1 to ask that you pull up so that you speak
2 comfortably into that microphone, so that
3 everyone can hear you.

4 JUROR NUMBER 272: Okay.

5 THE COURT: We are going to have
6 some questions. I am going to have some
7 questions and then the attorneys will probably
8 have some questions of you. All of these
9 questions are really just to help all of us,
10 you, us, determine whether you can be a fair
11 and impartial judge with me in this case.
12 Okay?

13 JUROR NUMBER 272: Okay.

14 THE COURT: That's the sole
15 purpose.

16 JUROR NUMBER 272: I understand.

17 THE COURT: There are no "correct"
18 answers to any of these questions, nor are we
19 trying to challenge any belief that you have.
20 You are entitled to those beliefs. Don't
21 feel that you have to justify any of them. We
22 respect that and respect you for that. Nor is
23 anyone trying to invade your privacy.

24 With that understanding, I would only
25 ask that you be truthful and candid in your

1 response and that you answer the questions
2 completely. Will you do that?

3 JUROR NUMBER 272: Yes, I will.

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

7 VOIR DIRE EXAMINATION

8 BY THE COURT:

9 Q. Since we were together -- well, first I
10 would remind you that you are still under
11 oath. Okay?

12 A. Okay.

13 Q. --- on Friday, have you talked with
14 anyone, permitted anyone to talk with you;
15 talked to anyone, permitted anyone to talk to
16 you about this case or to talk about it in
17 your presence?

18 A. No, I haven't.

19 Q. Have you watched any news accounts or read
20 any newspaper articles about it?

21 A. I walked through a room while the news was
22 on but I didn't stop.

23 Q. Do you recall anything that you heard, or
24 may have heard?

25 A. No.

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

9 A. No.

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

13 A. Yes, I have.

14 Q. Of the three types of jurors listed there,
15 which type most accurately describes you?

16 A. Most accurately and most honestly,
17 probably two.

18 Q. All right. Tell me what type two means to
19 you.

20 A. Well, a type two means to me that whether
21 they are guilty or not guilty -- guilty of,
22 you know, -- the sentence, either the death
23 penalty or the life imprisonment without the
24 possibility of parole, and would my mind
25 already be made up. I almost -- I don't

1 believe in the death sentence. That's just my
2 belief in the House of God, I just don't.
3 That's -- no matter what you've done.

4 Q. No matter what you've done?

5 A. (Affirmative nod).

6 Q. So my understanding is that in your mind
7 there are no circumstances whatsoever in which
8 you, because of your strong beliefs, could
9 ever vote to impose a death sentence
10 notwithstanding the judge's instruction you
11 were to consider that as a possibility?

12 A. That's correct.

13 Q. You could not do that?

14 A. (Negative gesture), I don't think so.
15 I've thought long and hard about this this
16 weekend and prayed about it, feel like -- you
17 know, that's what I really believe in. So, I
18 could not.

19 THE COURT: Does the State have any
20 questions?

21 MR. BLOOM: I think it's my turn.

22 THE COURT: Excuse me, Mr. Bloom.

23 I'm sorry.

24 VOIR DIRE EXAMINATION

25 BY MR. BLOOM:

1 Q. Ma'am, no one is here to argue with your
2 beliefs. I just have a couple of followup
3 questions.

4 A. Sure.

5 Q. Are you able to set that belief aside and
6 listen to Judge Dennis's instruction and
7 evidence and if it was a case that in your
8 view warranted it, could you vote for death?
9 Or is your view so strong that you could never
10 set it aside?

11 A. (Pause) -- I could set it aside
12 temporarily but in my inner self that's just
13 the way that I believe. I mean, I could sit
14 there and listen but I don't think that I
15 could be persuaded to do that. Do you
16 understand what I'm saying?

17 Q. I do. When you say that you could set it
18 aside temporarily -- and, please, believe me
19 I'm not trying to get you to say one way or
20 another, or to put words in your mouth, but
21 could you take those beliefs and set them
22 aside enough to serve on a jury where the
23 ultimate punishment was at-issue and if there
24 were sufficient facts and circumstances, after
25 you were instructed on the law, could you set

1 that aside in a circumstance that you felt it
2 was appropriate to then vote for the death
3 penalty? Or can you not set it aside?

4 A. (No verbal response).

5 Q. And I am not trying to trick you or to put
6 words in your mouth. I just kind of need to
7 know.

8 A. I don't think I can.

9 Q. Fair enough. Is that a belief that you
10 hold as a matter of your religious faith, I
11 believe that you said?

12 A. It's just something that I -- (affirmative
13 nod).

14 Q. Just so the court reporter can take it
15 down, that would be a "yes", that it is a
16 religious belief?

17 A. Yes.

18 MR. BLOOM: Thank you, ma'am.

19 THE COURT: Anything else?

20 BRUCE DURANT: No, sir.

21 THE COURT: Thank you very much,
22 Ms. Setzehorn. I am going to excuse you from
23 further participation in this dispute. I want
24 to ask one question, though, to follow up on
25 something that was asked. I appreciate your

1 answer and I think that I understand that
2 answer. You said, 'I could set it aside
3 temporarily but it would bother me.' You
4 understand that what you do would be a
5 permanent decision, it would not be a
6 temporary decision and that you'd have to sign
7 your name -- part of the instruction, in
8 carrying out the instructions, you'd have to
9 sign your name to a form that says 'I vote for
10 a death sentence for this person.'

11 JUROR NUMBER 272: I understand.

12 THE COURT: Could you do that?

13 JUROR NUMBER 272: (Negative gesture).

14 THE COURT: As you sit here today,
15 I want to be sure -- I asked you this but I
16 want to be clear. You can't even conceive of
17 any circumstances that would even cause you to
18 want to set it aside, can you?

19 JUROR NUMBER 272: (Pause) --

20 honestly, I can't.

21 THE COURT: Thank you, ma'am. You
22 may step down. Any additional questions from
23 anyone?

24 MR. BLOOM: No, sir. Thank you
25 very much.

1 JUROR NUMBER 272: Thank you.

2 Have a great day. You don't even have to call
3 back. You've completed your service.

4 (JUROR NUMBER 272 EXITS COURTROOM)

5 THE COURT: I find that Ms.

6 Setzehorn is disqualified really because of
7 her inability to effectively serve as a juror
8 because her beliefs would substantially impair
9 her performance or duty as a juror in that in
10 fairness she even said, 'yeah, I could set it
11 aside and maybe consider it.' But the problem
12 that we have in our case law in this state is
13 that until she could actually sentence someone
14 to death, that -- just considering it is not
15 sufficient.

16 Furthermore, the problem that I have
17 for her to even get to that threshold point of
18 'I could set it aside', as she said
19 "temporarily", her statement was that 'I can't
20 even think of a situation where it would cause
21 me to want to do that in the first place.'
22 That's further impairment.

23 I understand that she has relied on
24 religious belief and -- the State has no
25 objection to her being disqualified, Mr.

1 Durant?

2 BRUCE DURANT: Not at all, Judge.

3 THE COURT: Mr. Bloom, I will be
4 delighted to hear from you. I assume your
5 objection will continue as previously stated?

6 MR. BLOOM: The same, Your Honor.

7 THE COURT: Thank you.

8 MR. BLOOM: To a juror who, as she
9 has, stated her religious beliefs, under the
10 First, Eighth and Fourteenth Amendments.
11 Thank you.

12 THE COURT: Thank you so much. I
13 appreciate that being preserved for review,
14 because it needs to be addressed if the Court
15 chooses to do so. Thank you.

16 MR. BLOOM: Thank you, Your Honor.

17 THE COURT: Let's bring in our next
18 juror, Juror 148, Samantha Iorio.

19 (JUROR NUMBER 148 ENTERS COURTROOM)

20 THE COURT: Good afternoon, how are
21 you?

22 JUROR NUMBER 148: Fine. How are
23 you?

24 THE COURT: Great. Thank you. I
25 appreciate your being patient with us. We are

1 ready to continue the process that we started
2 on Friday. There are some questions that we
3 need to ask of you.

4 I need for you, if you will, to sit
5 and pull yourself up so that you can speak
6 into that mic comfortably.

7 First, would you please state your
8 full name for the record.

9 JUROR NUMBER 148: Samantha Ann Iorio.

10 THE COURT: Ms. Iorio, thank you
11 for being here. We want to ask you some
12 additional questions. I will have some
13 questions for you, and the attorneys as well
14 will have some questions for you. None of
15 these questions today, they are very similar
16 to those that we asked on Friday. There are
17 no "correct" answers to any of them.

18 Also, please know that we are not
19 here to challenge any beliefs that you have or
20 philosophies that you may have. You are
21 entitled to those and we do not wish you or
22 want you to think that you have to defend them
23 for any reason whatsoever. All that we ask is
24 that you be candid and truthful in responding
25 to the questions and that you answer the

1 questions completely. Will you do that?

2 JUROR NUMBER 148: Yes, sir.

3 THE COURT: I would remind you,
4 ma'am, that you are still under oath in this
5 matter.

6 JUROR NUMBER 148: Okay.

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

10 VOIR DIRE EXAMINATION

11 BY THE COURT:

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

17 A. Actually at my job there's been several
18 people talking about it because of all that's
19 been in the newspaper, but I've done my best
20 to leave the area and not participate.

21 Q. Do you recall anything that anybody has
22 said about the case?

23 A. Just that the jury selection was under
24 way. I think that there was one person that
25 was selected. That's about it.

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1 Q. Nothing that you heard or the fact that
2 they've been talking about it would in any way
3 affect your ability to be a fair and impartial
4 juror?

5 A. No, sir.

6 Q. You realize that if you were on the jury
7 that you would make a commitment to decide the
8 case based on what happens in this courtroom.
9 That is, you would decide it based on the
10 evidence and the law?

11 A. Yes, sir.

12 Q. And that would not influence or affect
13 that in any way; is that correct?

14 A. (Affirmative nod). No.

15 Q. On Friday, I mentioned a number of names
16 but I failed to mention two names that I need
17 to ask you about. Are you related by blood or
18 marriage, have any business dealings with or
19 socially or casually acquainted with or have
20 any dealings with a Jeff Osborne or a Matt
21 Casey?

22 A. No.

23 Q. You were given a sheet when you came in
24 today that sets forth three types of jurors,
25 have ---

1 A. Right.

2 Q. --- you had a opportunity to review that
3 sheet?

4 A. Yes, sir.

5 Q. You've had an opportunity to consider the
6 three types of jurors and decided one most
7 accurately describes you?

8 A. Yes, sir.

9 Q. Which one is it?

10 A. Type three.

11 Q. Okay. Tell me what that means to you, a
12 type three? What do you mean?

13 A. Type three means that if the defendant is
14 found guilty that I have predetermined
15 personally against the death penalty, for the
16 death penalty, or if I am willing to make a
17 decision on a sentence based on the evidence
18 provided in court.

19 Q. So basically you would be the person that
20 does not have any predetermination?

21 A. (Affirmative nod). No.

22 Q. Either way?

23 A. Correct.

24 Q. Life imprisonment without the possibility
25 of parole or a death sentence?

1 A. Correct.

2 Q. Let's talk about this abstract case in
3 which that juror appeared and, assuming you
4 are the type three that you just talked about,
5 okay?

6 A. Okay.

7 Q. Obviously at that stage the sheet
8 represents, the jury -- you included -- would
9 have heard the first phase. You would have
10 completed that, because the person accused of
11 the crime of murder, you would have returned a
12 verdict of guilty of murder. Okay?

13 A. Um-humm.

14 Q. That means that you will have honored that
15 oath that you took, at least as to the first
16 phase, in that you would have had an open mind
17 before you started; you wouldn't have had any
18 predetermination as to that person's guilt or
19 -- other than the fact that you would see him
20 or her innocent, as the law requires you to
21 do. Do you understand that?

22 A. Hummm, (affirmative nod).

23 Q. And you wouldn't change that until you
24 heard all of the evidence and been convinced
25 beyond a reasonable doubt that the elements of

1 that crime of murder had been established and
2 that's what would have happened, but until you
3 reach that point you would have presumed that
4 person was innocent. You would have done
5 that, is that correct?

6 A. Yes, sir.

7 Q. And you would have followed the court's
8 instruction by returning that verdict. Murder
9 in this case, murder for the purposes of what
10 we'll be talking about in this abstract case
11 means that the person has been found guilty of
12 killing another person with malice
13 aforethought.

14 That means, first of all, that the State
15 had the right person. No question in your
16 mind about that. You were satisfied beyond a
17 reasonable doubt that that was the person.

18 A. Um-humm.

19 Q. And, number two, there's no question --
20 there would be no question in your mind that
21 the killing of that person was in fact murder
22 and not, in this state, -- in this state the
23 only two other considerations that you would
24 have in a murder case would be manslaughter
25 and involuntary manslaughter.

1 In some states they call them murder first
2 degree, second degree, third degree.
3 We don't have that in South Carolina.

4 But what you'd have is that the jury may
5 consider in some situations manslaughter and
6 involuntary manslaughter. You would have
7 ruled those out. Manslaughter is when you
8 kill someone in the sudden heart of passion.
9 In other words, you've been provoked to a
10 point where you couldn't control yourself and
11 you killed somebody.

12 A. Okay.

13 Q. It's not that.

14 A. Okay.

15 Q. Murder is not that, doesn't have anything
16 to do with that.

17 A. Okay.

18 Q. Other than being that you killed somebody.

19 A. Okay.

20 Q. The second one, involuntary manslaughter
21 is when you acted recklessly -- you may not
22 have even intended it but you acted recklessly
23 and someone died and, therefore, it was
24 involuntary manslaughter.

25 A. Okay.

1 Q. It's not that either.

2 A. Okay.

3 Q. This is where somebody, you convicted a
4 person who wanted to kill somebody, they
5 intended to kill that person, they had malice,
6 they were motivated by an evil spirit or an
7 ill heart, ill will, and they went out and
8 carried it out.

9 A. Okay.

10 Q. Okay?

11 A. (Affirmative nod).

12 Q. As I understand from what you told me, as
13 a type three it doesn't matter -- you still
14 don't have an idea at this point because you
15 haven't gone through the second phase. Is
16 that correct?

17 A. Correct.

18 Q. Would you agree with me that that is
19 important as a juror to have an open mind?

20 A. Yes, sir.

21 Q. Before you start the process?

22 A. Yes, sir.

23 Q. I would find -- I think that's one of the
24 -- one of the traits that probably one of the
25 necessary characteristics of a juror, that

1 they have an open mind.

2 A. (Affirmative nod).

3 Q. Because if you start it with any
4 predetermination, then you haven't been true
5 to your oath of being fair and impartial.
6 Have you?

7 A. Correct.

8 Q. Now, obviously type one and type two in
9 that situation, there may be strong feelings
10 that they have but for whatever reason, either
11 they didn't disclose it but they didn't have
12 an open mind when they started that second
13 phase. Did they?

14 A. Correct.

15 Q. Because they said, 'Okay, we've convicted
16 you of murder, now I believe that the sentence
17 should be death as to type one. Type two
18 says, 'Okay, we convicted you of murder and
19 now it's my belief that it ought to be life
20 imprisonment.'

21 A. Correct.

22 Q. In every situation?

23 A. (Affirmative nod).

24 Q. But that's not you?

25 A. No, sir.

1 Q. That's important because, first of all, it
2 honors the oath that you took and the law;
3 secondly, it's important for this reason: in
4 this state, normally a jury is not involved in
5 sentencing. The jury would be involved in
6 what has occurred in this abstract case, that
7 is determining the first phase, determining
8 whether the State has met its burden of proof
9 but once a jury returns a verdict and said,
10 'Judge, we've found him guilty of murder',
11 that would be it. The judge would say, 'Thank
12 you very much, you're excused.' Then the
13 judge would decide the sentence.

14 The sentence in that setting, if that were
15 to be the case, the maximum sentence that the
16 judge could impose would be life imprisonment
17 without the possibility of parole.

18 A. Okay.

19 Q. He doesn't have to. He could impose a
20 lesser sentence but that's the maximum
21 sentence. A judge could never impose a death
22 sentence in that setting. Okay?

23 A. Okay.

24 Q. And the law says that's the way that it
25 normally is unless something happens, and that

1 is that the State elects to pursue the death
2 penalty in cases where the State says that it
3 warrants it because the State claims that
4 there are aggravating circumstances which
5 exist that justify it. Our legislature has
6 provided a number of aggravating circumstances
7 which a juror in the second phase first has to
8 determine; that is, whether or not the State
9 has proven -- if the State proves that beyond
10 a reasonable doubt. That's part of what that
11 second phase will deal with because that's a
12 factor to be considered in fashioning a
13 sentence, obviously.

14 A. Right.

15 Q. It makes the crime of murder worse and it
16 gives, in essence, the jury the right to even
17 consider it in the first place. The
18 instruction would start, basically, or part of
19 it would say, 'Ladies and Gentlemen, if after
20 you have deliberated, considered all the
21 evidence, you aren't convinced beyond a
22 reasonable doubt that the State has
23 established at least one aggravating
24 circumstance, you can't even consider a death
25 sentence, you must return life imprisonment

1 without the possibility of parole.'

2 A. I understand.

3 Q. Would you have any problem following that
4 instruction?

5 A. No, sir.

6 Q. All right. Thank you. Now, aggravating
7 circumstances, there are a number. Let me
8 just tell you, so that you will understand --
9 for instance, in that case if it were the
10 killing of a police officer or of a child,
11 those are listed as aggravating circumstances,
12 so the jury would consider. Some of that
13 you've already heard because you've already
14 decided that the victim in that first case was
15 a police officer. So the State would be
16 entitled to rely on that if you had already
17 found that they'd killed the person, then
18 obviously the question would be whether the
19 person was a police office. If you found that
20 beyond a reasonable doubt then that
21 aggravating circumstance would have been
22 established. Do you understand that?

23 A. Yes, sir.

24 Q. That's the process. You go through that
25 in analyzing the evidence to see whether or

1 not that aggravating circumstance had been
2 established.

3 Assuming just for the sake of our
4 discussion here today that you had concluded
5 that an aggravating circumstance in that
6 abstract case had been established. The
7 charge would go on to say that then you may
8 consider, in addition to life imprisonment
9 without the possibility of parole, a death
10 sentence. It would say also -- but that
11 doesn't mean that you have to return a death
12 sentence.

13 A. Right.

14 Q. In other words, just because you found
15 aggravating circumstances the court would
16 never tell you that you must therefore return
17 a death sentence. It simply says that now you
18 make the call, you decide which one is the
19 appropriate sentence considering all the
20 evidence and all the circumstances. Do you
21 understand that?

22 A. Yes, sir.

23 Q. As I understand, as the type three juror,
24 you would then be able to analyze that
25 evidence, decide for yourself what you believe

1 to be the truth and then once making that
2 decision, considering all the evidence and
3 following that instruction, in some situations
4 -- and I'm not asking you to tell me what they
5 are, but in some situations you can foresee
6 and conceive of saying, 'I believe this
7 warrants the death penalty', in both of those.
8 Is that correct?

9 A. Yes, sir.

10 Q. And, likewise, there are situations that
11 while you may have the right or the option of
12 imposing a death sentence, you may say 'well,
13 we have the right to but in this situation I
14 think the most appropriate punishment is not a
15 death sentence but life imprisonment without
16 the possibility of parole.' Is that correct?

17 A. Yes, sir.

18 Q. And you could fairly and impartially
19 consider the evidence and determine which one
20 you think was best?

21 A. Yes, sir.

22 Q. That is important because I -- I would
23 also tell you that part of that instruction,
24 in addition to aggravating circumstances, is
25 some other evidence that you may hear

1 concerning the appropriateness of a death
2 sentence. You may hear something that we call
3 mitigating circumstances; some of them are
4 defined by statute and some are just
5 nonstatutory. They are just common sense
6 mitigating circumstances. Our law says that
7 these are circumstances -- some examples of
8 statutory are the person was suffering from
9 some addiction and that affected the person.
10 The person had some problems, abuse in
11 childhood or that sort or -- or the person has
12 some mental health issues that wouldn't
13 justify or excuse it, but gave you a reason to
14 -- gives a jury a reason, 'that explains why
15 they may have done or acted in the way that
16 they did.' Again, it is not -- it doesn't
17 excuse anything but it just gives you
18 something that you would further consider.

19 I would instruct you that if you find
20 those mitigating circumstances, that you must
21 give serious and meaningful consideration to
22 those circumstances.

23 They would be important to you in
24 fashioning a sentence, I would assume. Is
25 that correct?

1 A. Yes, sir.

2 Q. And you'd want to consider those and would
3 consider those before you determined a
4 sentence?

5 A. Yes, sir.

6 Q. I would instruct you of course in that
7 abstract case, just as I would in any criminal
8 dispute, that the person accused of that
9 offense didn't have any burden to prove
10 anything to you at any stage, first or second
11 stage. In fact, they didn't have to testify,
12 they didn't have to offer evidence and if they
13 chose not to testify or offer any evidence,
14 whether in the first or second phase, you
15 couldn't use that against them in any way.
16 Would you be able to follow that instruction,
17 too?

18 A. Yes, sir.

19 Q. That would mean, of course, in analyzing
20 it, if there weren't any mitigating
21 circumstances for you to consider, then you
22 can't hold that against them. Would you be
23 willing to -- could you do that?

24 A. Yes, sir.

25 Q. Okay. And that's important because

1 another part of that charge would say this,
2 that as a member of that jury deciding on the
3 appropriate sentence and you're to that point
4 where you'd have the option, you can impose --
5 as I stated, life imprisonment without the
6 possibility of parole or you can impose a
7 death sentence and you can have a reason and
8 rationale basis for doing so. Or, you can
9 impose a life imprisonment without the
10 possibility of parole for no reason if you
11 chose to. Do you understand that?

12 A. Um-humm.

13 Q. That would be part of that instruction?

14 A. Yes, sir.

15 Q. And you would be able to do that fairly
16 and impartially as well?

17 A. Yes, sir.

18 Q. And make that ultimate decision, given all
19 those options and all that factors that you
20 would have to consider, you would give
21 meaningful consideration in evaluating the
22 evidence?

23 A. Yes, sir.

24 Q. And let me now depart from this abstract
25 case -- thank you very much for asking those

1 questions ---

2 A. Yes, sir.

3 Q. --- and ask you, concerning this
4 particular case, and you understand, as I
5 mentioned to you, that Mr. Dickerson has been
6 accused of committing several criminal
7 offenses. You understand that?

8 A. Yes, sir.

9 Q. And I believe that you indicated to me, by
10 not responding, that you had no problem with
11 the principle of law that persons who are
12 accused of such violations are presumed
13 innocent.

14 A. Right.

15 Q. And you just said that early in the
16 abstract setting?

17 A. (Affirmative nod).

18 Q. So today as he sits here, it's an active
19 presumption.

20 A. Right.

21 Q. We have to actively see him as innocent.

22 A. Right.

23 Q. You don't have any problem -- Mr.
24 Dickerson is innocent, as far as you're
25 concerned?

1 A. Yes, sir.

2 Q. And you would promise to keep that mindset
3 until you were instructed to begin your
4 deliberation and change only when, after
5 considering all the evidence and the law, you
6 were convinced beyond a reasonable doubt that
7 he was guilty of one or more offenses?

8 A. Correct.

9 Q. Okay. You could -- there's nothing that
10 you've heard in this case that would cause you
11 any concern or give you any concern about your
12 ability to apply your common sense, your sense
13 of logic and reasoning and your life's
14 experiences in fairly and impartially
15 analyzing the evidence.

16 A. That's correct.

17 Q. I believe that you have stated through-
18 out, and I ask you again, you have an open
19 mind about this case?

20 A. Yes, sir.

21 Q. And you're willing and able to follow the
22 law as I give it to you and apply that law
23 fairly and impartially and, if necessary, set
24 aside anything that you hear in the law that
25 may be at some conflict with some belief that

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1 you have or strong feeling that you have?
2 Obviously I would never tell you to do
3 something illegal because what I will tell you
4 will be the law. But if your recollection is,
5 'Well, I didn't know the law was that' or 'I
6 don't think that should be the law' or 'I
7 thought it was such-and-such', you'd set aside
8 those personal belief; is that correct?

9 A. Yes, sir.

10 THE COURT: Thank you, ma'am.
11 Please answer any questions that the attorneys
12 may have.

13 VOIR DIRE EXAMINATION

14 BY BRUCE DURANT:

15 Q. Good afternoon, Ms. Iorio. My name is
16 Bruce Durant. I am the Deputy Solicitor.
17 This is Scarlet Wilson, she is the Solicitor.
18 This is Rutledge Durant, an Associate
19 Solicitor in our office and we'll be trying
20 this case on behalf of the State.

21 I get an opportunity now to ask you a
22 couple of questions now in followup to what
23 the judge asked. I want to start off by
24 asking, 'What is your opinion of the death
25 penalty?'

1 A. I really had not thought of it before
2 because I've never been ---

3 Q. (Affirmative nod), in that situation.

4 A. --- in that situation, (affirmative nod).

5 But, I mean, I am a very fair person, open
6 minded, so -- (pause) -- and I still don't
7 really have an opinion about it, you know, how
8 to really be convinced of this part.

9 Q. That's fair. My question is, can you
10 envision circumstances where it would be
11 warranted?

12 A. Uh -- yes.

13 Q. I am not going to ask you what those area,
14 but could you follow the Judge's instruction
15 when he is telling about aggravating
16 circumstances or mitigating circumstances
17 where you can't even consider the death
18 penalty?

19 A. Yes. And are you willing to give those
20 aggravating circumstances due consideration if
21 we prove them beyond a reasonable doubt as we
22 are required to do?

23 A. Yes, sir.

24 Q. And you've already said that you could
25 consider mitigating circumstance if the

1 defendant decided to put up any mitigating
2 circumstances and that you could concern
3 mercy, as well; is that correct?

4 A. Yes.

5 Q. But my question is this, if it comes to in
6 the case that you're a setting juror in a
7 capital case and if it was the collective
8 opinion of the juror that the defendant should
9 be put to death, could you sign your name to a
10 verdict form putting another human being to
11 death?

12 A. If I had no doubts that was the person,
13 (affirmative nod).

14 Q. Thank you.

15 THE COURT: Mr. Bloom.

16 VOIR DIRE EXAMINATION

17 BY MR. BLOOM:

18 Q. How are you doing today, Ms. Iorio?

19 A. Fine.

20 Q. Good. My name is Jeff Bloom and along
21 with Andrew Carroll, who is out of the
22 courtroom right now, we represent William
23 Dickerson. Let me follow up to your last
24 remark to Solicitor Durant, which was 'if I
25 had no doubt.'

1 Can you just explain to me -- I think I
2 know what you meant but I don't want to
3 assume. Can you tell me what you meant by
4 that?

5 A. You know, if there was some doubt that the
6 person is guilty and there was extreme,
7 violent behavior that was premeditated and
8 that person shows no remorse, no care, no care
9 for the human life of himself, you know, I
10 think it would have to be a collective of
11 everything for me to be convinced that another
12 person does not deserve to live.

13 Q. Fair enough. Thanks for explaining that
14 to me.

15 A. You're welcome.

16 Q. And when you said that it would have to be
17 a violent death, you understand, as Judge
18 Dennis defined murder for you, it is that
19 malice murder, that violent act.

20 A. Yes.

21 Q. That some people, just because they find
22 someone guilty of a malice murder and a
23 violent act, they automatically vote for the
24 death penalty at that point in time. That's
25 not you?

1 A. No.

2 Q. Okay. I just wanted to make sure that I
3 followed up with that.

4 Next let me ask you, Judge Dennis also
5 defined mitigating circumstances and just to
6 reorient you to that, it's a -- he gave you a
7 bunch of possible examples, background,
8 upbringing, drug abuse, addiction, mental
9 health. Those are things that you are able to
10 consider?

11 A. Yes, sir.

12 Q. There is nothing in your background or
13 opinions that would cause you not to listen to
14 that subject matter?

15 A. No.

16 Q. Finally, as Judge Dennis explained the
17 process to you, you understood that he said
18 the law never requires any jury to vote for
19 the ultimate punishment.

20 A. Correct.

21 Q. Once you have heard everything, you have
22 gone through the whole process it is totally
23 up to you as a juror, do you understand that?

24 A. Yes, sir.

25 Q. The law calls that a individualized,

1 reasoned moral judgment. Can you accept that?

2 A. Yes, sir.

3 Q. And once you've heard all the evidence,
4 all the circumstances, Judge Dennis'
5 instructions on the law, then with the eleven
6 other jurors you'all had discussed it, you'd
7 debated it, you'd gone around, you'd listened
8 to them, they had listened to you, and if
9 eleven jurors were voting one way but you were
10 voting another way and you had come to your
11 individualized, reasoned moral judgment could
12 you stand your ground?

13 A. Yes, sir.

14 Q. What I am asking is, you wouldn't just
15 say, 'You know what? It's late. I'm ready to
16 go home to dinner. I am just going to go
17 along to get along.'

18 A. No, because of my conscience, I could not
19 do that.

20 Q. I believe that answer from all your others
21 but you know why I kind of have to ask that?

22 A. (Affirmative nod), yes, sir.

23 Q. You'd expect those other jurors to respect
24 your vote?

25 A. As you would respect theirs?

1 A. Yes, sir.

2 MR. BLOOM: Thank you.

3 THE COURT: Any further questions,
4 Mr. Durant.

5 BRUCE DURANT: No, sir, Your
6 Honor.

7 THE COURT: Thank you, ma'am. If
8 you would step out just for a moment, we will
9 be with you shortly.

10 (JUROR NUMBER 148 EXITS COURTROOM)

11 THE COURT: I find that she is
12 qualified. Any objection?

13 BRUCE DURANT: No, sir.

14 THE COURT: Any objection from Mr.
15 Dickerson?

16 MR. BLOOM: No, Your Honor.

17 THE COURT: Ask her to step in,
18 please.

19 (JUROR NUMBER 148 ENTERS COURTROOM)

20 THE COURT: Thank you so much.

21 Thank you for your patience. Thank you very
22 much, and I appreciate your patience. You've
23 been found to be qualified to be a member of
24 the panel from which we will select our jury.
25 That process will take place in the morning at

1 9:30. I need for you to come back tomorrow.

2 When you come back, come directly to this
3 courtroom. You will see other jurors that
4 will be seated in the audience and you can
5 just take a seat out there with them.

6 We will select our jury and our plans
7 are to then, after we have empaneled the jury,
8 to begin the trial of the case. So please be
9 prepared to stay tomorrow should you be on the
10 jury.

11 Until then and until you have been
12 dismissed from this case, please remember that
13 you still are not at liberty to discuss this
14 case with anyone or permit anyone to talk with
15 you about it. Also, please continue not to
16 watch any news programs about it or read any
17 news accounts. Have a great day and we'll see
18 you in the morning.

19 (JUROR NUMBER 148 EXITS COURTROOM)

20 THE COURT: Juror Number 357, Ms.
21 Dawson.

22 (JUROR NUMBER 357 ENTERS COURTROOM)

23 THE COURT: Ms. Dawson, good
24 afternoon.

25 JUROR NUMBER 357: Good afternoon.

1 THE COURT: Thank you for your
2 patience. We appreciate it. I know you've
3 been there for a while and we won't keep you
4 much longer. Please take your seat. If you
5 will sit and pull yourself up so that you can
6 speak into that mic comfortably.

7 We want to ask you some questions,
8 continuing the process that we started on
9 Friday. Please, as you noticed on Friday none
10 of these questions today, just as those on
11 Friday, they don't have any correct answers to
12 any of them. Nobody is here to challenge any
13 beliefs that you have or strong feelings that
14 you have. You're entitled to those.

15 All that we ask is that you responded
16 truthfully to my questions, respond candidly,
17 and completely. Will you do that?

18 JUROR NUMBER 357: To the best that I
19 can, to the best of my ability.

20 THE COURT: All right. I need for
21 you to get to where you can speak into that
22 mic, because -- that mic, you have to sit
23 pretty close to it for it to work.

24 Will you state your full name for the
25 record, please?

1 JUROR NUMBER 357: Leverne Priscilla
2 Dawson.

3 THE COURT: Ms. Dawson, I would
4 remind you that you're still under oath in
5 this matter. Is that agreeable with you?

6 JUROR NUMBER 357: Yes.

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

10 Q. Since we were together on Friday, have you
11 talked with anyone, permitted anyone to talk
12 with you about this case or talk about it in
13 your presence?

14 A. No.

15 Q. Have you watched any news accounts or read
16 any newspaper articles about it?

17 A. Well, there was a paper in the conference
18 room but I didn't read it.

19 THE COURT: Let's check that
20 immediately.

21 JUROR NUMBER 357: Yeah, there was a
22 paper.

23 THE COURT: You didn't read the
24 paper, did you?

25 JUROR NUMBER 357: No, sir.

1 THE COURT: Just bring it in when
2 you -- if you will, please. Thank you.

3 EXAMINATION CONTINUED

4 BY THE COURT:

5 Q. So you haven't read anything about this,
6 have you?

7 A. No, sir.

8 Q. I need to ask you. On Friday, I mentioned
9 a number of names but I failed to mention two
10 names that I need to ask you about. Are you
11 related by blood or marriage, have any
12 business dealings with or socially or casually
13 acquainted with or have any dealings with Jeff
14 Osborne or Matt Casey?

15 A. No.

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

19 A. Yes, sir.

20 Q. After thinking about it, which type most
21 accurately describes you?

22 A. Type two, sir.

23 Q. Tell me ---

24 THE COURT: If you (bailiff) would
25 just hold onto that paper for it.

1 BAILIFF: It's a Wall Street Journal.

2 THE COURT: That's fine, just hold
3 onto it and we will make it's a court's
4 exhibit. Thank you.

5 (SO ENTERED AS COURT'S EXHIBIT 7)

6 EXAMINATION CONTINUED

7 BY THE COURT:

8 Q. Tell me what you mean by a type two, what
9 does that mean to you?

10 A. The type two was saying it was a person
11 that would listen to the evidence but they
12 still would not go with the death penalty.

13 Q. Yes, ma'am. Basically that in every
14 situation where a murder, where a person has
15 been convicted of murder, the only punishment
16 that you could ever impose would be life
17 imprisonment?

18 A. Life imprisonment.

19 Q. And that's you?

20 A. Yes, sir.

21 Q. So that means that there would never be
22 any circumstances that you could think of ---

23 A. No, sir!

24 Q. --- in which you would impose a death
25 sentence?

1 A. (Negative gesture), no, sir.

2 Q. Even if the judge instructed you to
3 consider it and if you found circumstances to
4 be such that you could impose it?

5 A. No, sir.

6 Q. You would never impose it?

7 A. No, sir, I would not.

8 Q. Under any circumstances?

9 A. (Negative gesture), under any
10 circumstances. No, sir.

11 THE COURT: Thank you, ma'am.

12 Please answer any questions the attorneys may
13 have of you

14 VOIR DIRE EXAMINATION

15 BY MR. BLOOM:

16 Q. Ms. Dawson, my name is Jeff Bloom and
17 along with Andrew Carroll, we represent
18 William Dickerson. I just have a few followup
19 questions from what Judge Dennis asked you.

20 Are your beliefs -- would you ever be able
21 to set your strong beliefs aside and serve as
22 a jury in a particular case and if you feel
23 the circumstances were such that you could
24 vote for the death penalty?

25 A. No, sir.

1 Q. You could never do that?

2 A. No, sir.

3 Q. Do you hold that belief as a matter of
4 your strong religious beliefs, religious
5 faith?

6 A. That's one reason, sir.

7 MR. BLOOM: Thank you.

8 THE COURT: So there are other
9 reasons that you just don't believe in it, in
10 addition to your religious beliefs?

11 JUROR NUMBER 357: I just don't
12 believe in the death penalty because of the
13 way that I was raised up; a person needs to
14 practice forgiveness.

15 THE COURT: Thank you, ma'am.
16 I am going to excuse you from any further
17 participation -- excuse me, do you'all have
18 any questions?

19 SOLICITOR WILSON: No, sir.

20 THE COURT: I'm sorry, I apologize,
21 Solicitor.

22 SOLICITOR WILSON: No questions.

23 THE COURT: I am going to excuse
24 you from any further participation in this
25 dispute. Thank you for your participation.

1 You are free to leave. You don't have to come
2 back anymore.

3 JUROR NUMBER 357: Oh, thank you.

4 THE COURT: Have a great day,
5 ma'am.

6 COURT REPORTER: The paper, Your
7 Honor, will be Court's Exhibit 7.

8 THE COURT: I am going to ask that
9 all counsel please review that paper, and that
10 newspaper has been marked as Court's Exhibit
11 7. It was found in the jury room.

12 MR. BLOOM: Judge, I would just
13 note for the last juror my similar objection
14 as to others who have expressed a religious
15 belief. We would object under the First,
16 Eighth and Fourteenth Amendment.

17 THE COURT: Thank you, Mr. Bloom.
18 Thank you for keeping me on task. I
19 apologize. I assume the State has no
20 objection to the disqualification of that
21 juror?

22 BRUCE DURANT: That's correct,
23 Your Honor.

24 THE COURT: I would find, as I have
25 previously found, that that juror, because of

1 her beliefs, religious and otherwise, would be
2 unable to fulfill and carry out her job and
3 follow the law, follow her oath as I
4 understand that oath to be. As she described,
5 there would never be a circumstance where she
6 could ever possibly consider setting aside her
7 belief, that would ever cause her to want to
8 set it aside. For that reason, I again deny
9 your Motion; but, again, thank you, it is
10 protected.

11 MR. BLOOM: Judge, I would note --
12 just for the record, I believe that the jurors
13 are minding your instruction. She indicated
14 that she saw the paper, hadn't looked at the
15 paper. It happens to be the Wall Street
16 Journal, New York City. If nobody else wants
17 it, I might take it over lunch.

18 THE COURT: I would love to have it
19 but I think we probably need to keep that as a
20 part of the record. I will ask that you make
21 sure -- in fact, I noted some persons that
22 have books. Do you'all have objection to
23 their having books with them?

24 MR. BLOOM: No, sir, and I have no
25 objection to a juror reading the Wall Street

1 Journal or other similar out-of-town papers?

2 THE COURT: The State?

3 MR. BLOOM: I mean out-of-South
4 Carolina papers. I can't imagine Mr.
5 Dickerson's case is in the Wall Street
6 Journal.

7 THE COURT: I can't either but my
8 concern is that there may be something in
9 there that is related material or like ---

10 SOLICITOR WILSON: I would ask
11 -- I don't have a problem if you look at it
12 and see that it is okay. I am concerned about
13 novels about murders or true crime books, the
14 type of ---

15 THE COURT: Yeah. I would think
16 right now that we need to -- the better thing
17 is to tell them that we will give them their
18 books when they come back. That's the safest
19 thing to do. Or you will let me look at it --
20 if the book is something -- and I don't want
21 to be flippant but if it is something that is
22 about sports or football, I don't have any
23 problem with that. Rather than you (bailiff)
24 making the call, if you would show it to me
25 then I can go ahead and make note of that and

1 then we can let them have it to pass the time.

2 Other than -- the newspapers, if there -- any

3 objection to the Wall Street Journal?

4 SOLICITOR WILSON: Yes, sir.

5 THE COURT: Okay, just take

6 newspapers from them. Thank you very much.

7 2:30. We've got twenty minutes for lunch,

8 folks.

9 (LUNCH RECESS)

10 (DEFENDANT PRESENT)

11 THE COURT: Let the record reflect

12 that Mr. Dickerson is present. This is Panel

13 No. 11, but we are going to bring in Ms.

14 Barker.

15 Ms. Barker is the juror that called

16 in sick yesterday. Ms. Barker is from Panel

17 No. 7, Juror Number 11.

18 (JUROR NUMBER 11 ENTERS COURTROOM)

19 THE COURT:

20 THE COURT: Hello, Ms. Barker.

21 JUROR NUMBER 11: Good afternoon.

22 THE COURT: Are you feeling better

23 today?

24 JUROR NUMBER 11: Much better, thank

25 you.

1 THE COURT: You're very welcome.

2 First I would like to thank you for calling
3 and making that known. Believe it or not,
4 some people sometimes just don't even show up.
5 Thank you very much for that. That speaks
6 highly of you.

7 JUROR NUMBER 11: Thank you.

8 THE COURT: And, again, reaffirms
9 what I believe about this whole process. You
10 feel well enough to continue today?

11 JUROR NUMBER 11: I do. Yes, sir.

12 THE COURT: Great. We are going to
13 continue something that we started on Friday.
14 Of course, Friday we started asking you some
15 questions. Along that line, I am going to be
16 asking you some questions and the attorneys
17 may ask you some questions, as well.

18 JUROR NUMBER 11: Okay.

19 THE COURT: Just as you noted on
20 Friday and as I told you, there really are no
21 correct answers to any of these questions.

22 The purpose of these questions is
23 really to help all of you -- you and us --
24 determine whether you can be a fair and
25 impartial juror in this proceeding. We are

1 not here to challenge any philosophies or
2 beliefs that you have. You should not feel as
3 though you should have to defend any of these
4 or explain them. You're entitled to them.
5 Okay?

6 JUROR NUMBER 11: Okay. I under-
7 stand.

8 THE COURT: And we are not here to
9 invade any privacy either. We just ask you to
10 be truthful and candid in responding to these
11 specific questions. In that regard, I remind
12 you that you are under oath and -- will you do
13 that?

14 JUROR NUMBER 11: Yes, sir, I will.

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

18 VOIR DIRE EXAMINATION

19 BY THE COURT:

20 Q. Would you please state your name for the
21 record?

22 A. My name is Sherri Barker.

23 Q. Ms. Barker, I would remind you that you
24 are under oath -- I said that.

25 A. Yes, sir.

1 Q. Since we were together on Friday, have you
2 talked with anyone, permitted anyone to talk
3 with you -- talked to anyone or permitted
4 anyone to talk to you about this case or talk
5 about it in your presence?

6 A. No.

7 Q. Have you watched any news accounts or read
8 any newspaper articles about it?

9 A. I have not watched any local news or
10 anything about that. I did stumble across
11 the article on Monday and when I realized what
12 it was about, I put away.

13 Q. Very well, and you don't recall anything
14 specifically that you read before you
15 determined that?

16 A. No.

17 Q. And you understand -- whatever it was that
18 you read, that would not influence you in any
19 way in preparing your tasks and function as a
20 juror, and that is to make a commitment to the
21 court and to both parties that you would at
22 the appropriate time decide the true facts by
23 considering the evidence, which is testimony
24 of witnesses exhibits. Is that correct?

25 A. That's correct.

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

8 A. Not to my knowledge.

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

13 A. Yes, I have.

14 Q. Have you given some thought to which type
15 most accurately describes you?

16 A. I have.

17 Q. Which one most accurately describes you?

18 A. That would be type three.

19 Q. Okay. Tell me what you mean by being a
20 type three juror. What does that mean to you?

21 A. It means that if someone were to be found
22 guilty I would then take the mitigating
23 circumstances and all the other information
24 and decide appropriately what I feel the
25 punishment would be. I would not

1 automatically feel that the punishment should
2 be one way or the other based on a guilty
3 verdict.

4 Q. Okay. Thank you very much. And you
5 understand that abstract case that you have
6 before you on that sheet where the three types
7 of jurors are deciding, that where you would
8 be in that case would be at the midpoint,
9 because the jury in that case, you if you were
10 on that jury, would have already, you would
11 have just completed the portion where the
12 State has to prove the charge itself; that is,
13 the charge of murder.

14 A. Okay.

15 Q. Okay?

16 A. (Affirmative nod).

17 Q. So you would have participated in that
18 deliberation and you would have concluded at
19 that appropriate time, when the court
20 instructed you to begin your deliberations,
21 you would have concluded that the person that
22 the State has accused was the person who
23 committed the crime and that the crime was in
24 fact murder. Murder is the intentional
25 killing of someone with malice aforethought.

1 That means that it was a malicious act on that
2 person's part, that it wasn't a mistake, or it
3 wasn't something that -- it wasn't any self-
4 defense, it wasn't an accident. They intended
5 to do it, they were motivated by an evil
6 spirit, a heart devoid of any concern of
7 anyone and certainly wanting to hurt somebody
8 and they went and killed that person.

9 It would have also excluded in murder
10 -- there are times when a jury may be
11 instructed to consider what we call lesser-
12 included offense and those are the killing of
13 a person -- when a person dies because -- one
14 would be manslaughter or involuntary man-
15 slaughter -- manslaughter, that's when
16 somebody, because of the sudden heat of
17 passion, they kill someone; part of that is
18 that they've been provoked into taking that
19 action.

20 A. I understand.

21 Q. Another would be involuntary manslaughter
22 where there may not have even been an intent
23 but because of their reckless action(s)
24 someone died and that could make out the crime
25 of involuntary manslaughter. Obviously both

1 of those are not involved because you found
2 the person guilty of murder. Do you under-
3 stand that?

4 A. I do.

5 Q. As I understand what you just said to me,
6 because you're at the point now -- what is
7 unusual about this abstract case is that it is
8 a case where that jury is now going to
9 determine the appropriate punishment for that
10 individual that they've found guilty. They
11 are going to determine what is appropriate for
12 the offenses of murder. Okay?

13 A. Okay.

14 Q. You haven't heard any of the evidence that
15 will be important to that decision other than
16 the evidence of the crime itself. Okay?
17 Because you've already gone through that part
18 and certainly you can consider that in the
19 second phase, as well. But you haven't heard
20 that evidence that really is reserved for this
21 second part, you realize that?

22 A. Yes.

23 Q. As I understand what you've said, at this
24 moment you haven't started and you, as a type
25 three juror, as you've described, have no

1 predetermination of what the appropriate
2 punishment should be?

3 A. No, I do not.

4 Q. Okay. If you are able to consider a death
5 sentence then you may consider that or life
6 imprisonment without the possibility of
7 parole.

8 A. Yes, either one.

9 Q. Either one?

10 A. (Affirmative nod).

11 Q. And now let me explain something else. I
12 said 'if you are able to consider a death
13 sentence' because it's not usual or customary
14 in murder trials for the jury to participate
15 in sentencing. Normally what happens, and
16 let's take that abstract case, the jury -- you
17 would have been on the jury and found the
18 person guilty of murder and what would have
19 happened is that after finding the person --
20 finding that the State has established and
21 convinced you beyond a reasonable doubt of
22 that person's guilt you returned a verdict of
23 guilty, as you were instructed to do, the
24 court would excuse you and the presiding judge
25 would then impose the sentence.

1 The sentence a presiding judge could
2 typically impose or that offense, the maximum
3 sentence would be life without parole. That
4 would be the most that a judge could impose. A
5 judge could never impose, couldn't even
6 consider a death sentence. Do you understand
7 that?

8 A. Yes. But why is this different?

9 Q. I'm about to tell you. In fact, a judge
10 wouldn't even have to impose a life without
11 parole, it could be less than that. Okay?

12 A. Okay.

13 Q. Very legitimate question. That is what
14 really separates this particular offense,
15 because -- and that's part of this second
16 phase. Part of my instruction in the second
17 phase when it came to that point would be that
18 I would tell you that unless the jury finds
19 beyond a reasonable doubt the existence of
20 some aggravating circumstance, which is set
21 forth in our laws, and they have to find that
22 beyond a reasonable doubt from the evidence,
23 they would have to bring back a verdict of
24 life imprisonment without the possibility of
25 parole because you can't consider that unless

1 that aggravating circumstance, at least one,
2 is present.

3 Our Legislature, through statutes, has
4 defined certain aggravating circumstances,
5 which if those exists and are proven to that
6 level, beyond a reasonable doubt, then a jury
7 may consider a death sentence.

8 A. Okay.

9 Q. But that has to be established.

10 A. Okay.

11 Q. They are really -- "aggravating
12 circumstances", just as the name would imply,
13 are something that make an offense of murder
14 worse. To give you an example -- there are a
15 number of them, but just for purposes of our
16 discussion and for purposes of our abstract
17 case, assume that the person who committed the
18 murder, the person whom they murdered was
19 either a child or a police officer. In those
20 situations, our legislature has provided that
21 if the State chooses to that they can seek the
22 death penalty as a sentence. Of course, they
23 have to prove that a murder was committed and
24 that the victim was either a police officer or
25 a child. If you conclude that, after

1 completing the second phase, beyond a
2 reasonable doubt, one of those circumstances
3 exist, then the jury at that point is entitled
4 to consider a life sentence -- in other words,
5 which one would apply.

6 A. Um-humm.

7 Q. So let's assume for our discussion
8 purposes that you were on that jury and that
9 you concluded the existence of an aggravating
10 circumstance. Okay?

11 A. Okay.

12 Q. Which would give you the option of
13 including a sentence of life imprisonment
14 without the possibility of parole or a death
15 sentence.

16 A. Okay.

17 Q. Being a type three juror, it is my
18 understanding that you are stating that as a
19 juror who has started this proceeding, second
20 proceeding, with an open mind -- because you
21 stated that you didn't have any predetermina-
22 tions.

23 A. Right.

24 Q. Unlike the type one or the type two who
25 did have predeterminations?

1 A. Right.

2 Q. I would suggest to you that one of the
3 critical aspects about being a juror is that a
4 juror needs to have an open mind when they
5 start the process. Would you agree with that?

6 A. I completely agree with that.

7 Q. That's critical. If you have already
8 predetermined anything, then you've really not
9 been fair and impartial, have you?

10 A. Correct.

11 Q. So at this point you have that open mind,
12 because that -- that's one of the things that
13 I typically instruct a jury, that you have to
14 maintain that open mind until the court tells
15 you to begin your deliberations.

16 It's at that time when that process begins
17 to change, when you're sitting with your other
18 jurors and you're talking about the evidence
19 and discussing the law and the applications.
20 Is that your understanding?

21 A. Yes, it is.

22 Q. Assuming now in this abstract that you are
23 there, you've heard all the evidence in the
24 second phase, you've received the law, it is
25 my understanding that as a type three juror

1 that -- and I am not asking you to tell me
2 which circumstances would warrant what, but
3 what you're saying is that -- insofar as
4 you're concerned, there are circumstances that
5 you have thought about, that could perceive
6 and conceive that given the option of life
7 imprisonment without the possibility of parole
8 or a death sentence, you could choose a death
9 sentence as being the appropriate sentence?

10 A. I believe I could.

11 Q. Okay. Likewise, given the choice where
12 you could impose a death sentence or a life
13 imprisonment without the possibility of
14 parole, you could also make a decision, given
15 the circumstances that 'While I could impose
16 it, I don't think that's the appropriate
17 sentence. Life imprisonment is the more
18 appropriate sentence.'

19 A. I could do that, as well.

20 Q. You would do that, as well?

21 A. (Affirmative nod).

22 Q. You understand that -- and that would be
23 based on your fair and impartial view of the
24 evidence and your fair and impartial
25 application of the law; is that right?

1 A. That is correct.

2 Q. Well, that is important because -- you
3 said something when you described yourself as
4 a type three juror. You said that you would
5 want to evaluate all the evidence and you
6 mentioned mitigating circumstances.

7 A. (Affirmative nod).

8 Q. That would be something that I would tell
9 you that you may see in that evidence. Some
10 of them are statutory, some of them are non-
11 statutory, meaning common sense mitigating
12 circumstances that you are entitled to apply
13 your common sense, your sense of logic as you
14 analyze the evidence.

15 A. (Affirmative nod).

16 Q. My instruction would be that if you find
17 mitigating circumstances, whether they are
18 non-statutory or statutory -- some of the
19 statutory mitigating circumstances are such
20 things as the person has had an addiction, has
21 been suffering with this addiction for a long
22 time and they were under the influence of some
23 drug or alcohol at the time; that they've had
24 some emotional or mental condition that
25 they've had all their life, that wouldn't give

1 rise to excusing the act but it may give the
2 jury an explanation of why that person may
3 have acted in the fashion that they did. It
4 doesn't justify it but it gives you some
5 rationale explanation for that.

6 A. I understand.

7 Q. Or upbringing, child abuse, that type of
8 thing that aids in a person -- and there are
9 others. But it is my understanding from your
10 statement that you could follow this portion
11 of my instruction because I would say if you
12 find any mitigating circumstances, either
13 statutory or nonstatutory, you'd have to give
14 meaningful consideration before determining
15 the sentence.

16 A. Yes.

17 Q. You would do that?

18 A. Yes.

19 Q. That would be important to you?

20 A. Yes.

21 Q. I would also instruct you that in both
22 phases, when persons are accused of committing
23 criminal offenses, they don't have any
24 obligation to prove or disprove anything.
25 They certainly don't have to prove their

1 innocence. Do you have any problem following
2 that instruction?

3 A. Not at all.

4 Q. In fact, they don't even have to offer any
5 evidence or present any testimony at all.

6 They don't have to testify and you would not
7 be permitted to consider that against them. I
8 would so instruct you. Would you have any
9 problem following that instruction?

10 A. Not at all.

11 Q. So if in the second phase there were no
12 mitigating circumstances presented for your
13 consideration, you couldn't use that or hold
14 that against the person who was accused of
15 that crime, do you understand that?

16 A. Yes. If there are no mitigating
17 circumstances, there is nothing to hold
18 against them regarding that?

19 Q. That's right. It's just something you
20 don't have to consider.

21 A. Right.

22 Q. You still would have to consider and make
23 an ultimate determination as to which of the
24 two sentences you believe to be the most
25 appropriate, based on what facts and

1 circumstances that you have?

2 A. Yes.

3 Q. But as I understand, you wouldn't penalize
4 someone for their being no mitigating
5 circumstances?

6 A. No.

7 Q. That's important because in addition to
8 all of those other things, mitigating
9 circumstances, aggravating circumstances,
10 which likewise you would be expected to give
11 weight to that as well ---

12 A. (Affirmative nod).

13 Q. Those circumstances what would make the
14 murder more serious, more significant, --
15 again, I am asking you to say how much weight
16 you would but you would be expected to
17 consider those as well, and all other evidence
18 that is presented. You would do that?

19 A. Yes, I would.

20 Q. I would also instruct you before you left
21 that not only are you to consider that but the
22 jury has the right, even though you have the
23 right to impose a death sentence, if you
24 choose to, you may impose life without the
25 possibility of parole for no reason at all.

1 Do you understand that?

2 A. (No verbal response).

3 Q. In other words, you just choose to do it?

4 A. Yes, I understand that.

5 Q. And you'd be able to give due consider to
6 that option, as well?

7 A. Yes.

8 Q. And decide again, after all other factors
9 and the law, you would decide what in your
10 opinion would be the fair, just verdict and
11 fair, just sentence in that situation?

12 A. Yes, I would.

13 Q. Now let's stop talking about this abstract
14 situation and let me talk to you a little bit
15 about the matter that brings you here today.

16 As I mentioned to you, Mr. Dickerson has been
17 accused of several criminal violations. We
18 talked about one principle of law that is very
19 important in every criminal case, and that is
20 that when persons are accused of criminal
21 violations they are presumed innocent until
22 and unless the State proves them guilty beyond
23 a reasonable doubt.

24 A. I understand.

25 Q. And you said that you have no problem with

1 that principle of law?

2 A. No, I don't.

3 Q. And that's an active presumption; which
4 means that as you see these persons, you have
5 to actively presume that they are innocent.

6 A. Yes.

7 Q. And as Mr. Dickerson sits in this
8 courtroom today, you believe him to be
9 innocent of these charges?

10 A. Yes, I do.

11 Q. And you would have no problem holding onto
12 that belief until the court told you to begin
13 your deliberations if you were on the jury and
14 would not change that position until you had
15 evaluated all the evidence and considered the
16 law and you were convinced beyond a reasonable
17 doubt that the State had established each
18 element of a particular crime?

19 A. Yes, I would do that.

20 Q. Before you would change?

21 A. Correct.

22 Q. And you've heard nothing thus far that
23 would give you any concern about your ability
24 to at the appropriate time fairly and
25 impartially apply your common sense, your

1 sense of logic and reason in analyzing the
2 evidence and making a decision of what you
3 believe to be the truth?

4 A. That's correct.

5 Q. Likewise, you've heard nothing that would
6 cause you to predetermine anything. In other
7 words, you would have an open mind if you were
8 selected? Is that correct?

9 A. Yes.

10 Q. Also you understand that another aspect of
11 your commitment is that you would promise that
12 you would accept the law as I give it to you
13 and apply that law fairly and impartially to
14 the facts that you would have to decide?

15 A. Yes, I would.

16 Q. And that would include any principle of
17 law -- we've talked about some and you said
18 that you didn't have a problem with them. But
19 if you heard one and you said, you know, 'I
20 don't think that is the law, I don't think
21 that should be the law' or 'that is not what I
22 understand the law to be' or 'that is
23 inconsistent with how I believe.'

24 A. Meaning -- from what? From your
25 instructions?

1 Q. Yes. If you should have that feeling or
2 reaction, the State, Mr. Dickerson and the
3 court would expect that you would be able to
4 set those feelings aside should they arise and
5 follow the law?

6 A. Well, my intention is to follow the law.

7 Q. Notwithstanding the ---

8 A. Notwithstanding my feelings, (affirmative
9 nod).

10 Q. Very well. Thank you so much. I
11 appreciate you answering my questions. If you
12 would, please answer any questions that the
13 attorneys may have.

14 A. Okay.

15 BRUCE DURANT: Thank you, Your
16 Honor.

17 THE COURT: Yes, sir.

18 VOIR DIRE EXAMINATION

19 BY BRUCE DURANT:

20 Q. Hello, Ms. Barker. I am Bruce Durant, I
21 am the Deputy Solicitor.

22 A. Hello.

23 Q. Scarlet Wilson right here, she's the
24 Solicitor. Rutledge Durant beside her.
25 We are going to be handling this case on

1 behalf of the State.

2 A. Okay.

3 Q. Thank you for being here this afternoon.

4 I notice that Ed Kniesley is your cousin?

5 A. That's correct.

6 Q. Are you aware that he used to work in our

7 office? About a year and a half ago?

8 A. He was a state prosecutor at one time.

9 Q. He's the county attorney now but he did

10 used to work in our office.

11 A. Okay.

12 Q. You brought that to the court's attention

13 on your questionnaire.

14 A. Yes.

15 Q. Do you -- is there any way that your

16 relationship with Ed or his relationship with

17 this office, do you think it would have any

18 bearing on your ability to be a juror in this

19 case?

20 A. I don't think so, no.

21 Q. In giving the State and the Defendant a

22 fair and impartial trial?

23 A. I don't think so. No.

24 THE COURT: You don't think that it

25 would affect you, right?

1 JUROR NUMBER 11: I have no reason to
2 believe that it would.

3 THE COURT: In other words, the
4 question was that you would give the State a
5 fair and impartial trial and you said 'I don't
6 think so.' You would give the State and the
7 Defendant a fair and impartial trial?

8 JUROR NUMBER 11: Yes, I would.

9 THE COURT: Excuse me, Mr. Durant.

10 BRUCE DURANT: No problem.

11 EXAMINATION CONTINUED

12 BY BRUCE DURANT:

13 Q. I would take it from your responses on
14 your questionnaire that you are generally in
15 favor of the death penalty; is that correct?

16 A. I have no objection to the death penalty.

17 Q. Okay. If you were to rank yourself on a
18 continuum between the folks that think it is
19 always appropriate and those that think it is
20 never appropriate, where would you put
21 yourself on that scale?

22 A. Right down the middle.

23 Q. And if, in accordance with what you just
24 told the judge -- in accordance with the law
25 and in accordance with his instruction if you

1 and the rest of the jurors in a given case
2 felt that death was the appropriate sentence,
3 would you be able to sign your name to a
4 verdict form that required a defendant to be
5 put to death?

6 A. Yes.

7 Q. Okay.

8 BRUCE DURANT: I don't believe
9 that I have any other questions, Your Honor.
10 Thank you.

11 THE COURT: Thank you very much.
12 Mr. Bloom.

13 VOIR DIRE EXAMINATION

14 BY MR. BLOOM:

15 Q. Hi, Ms. Barker, how are you doing this
16 afternoon?

17 A. I am doing fine, thank you.

18 Q. My name is Jeff Bloom and along with
19 Andrew Carroll, who is out of the courtroom
20 right now, we represent William Dickerson.

21 I just have a few followup questions from what
22 Judge Dennis asked you. Are you okay, ma'am?

23 A. Sure.

24 Q. If I can, your questionnaire -- when asked
25 what your opinion was about the death penalty,

1 you put "Go for it!!!", with exclamation
2 points.

3 A. I did that. I do not object to the death
4 penalty.

5 Q. Okay. Are there any particular reasons
6 you have in that regard? Can you explain that
7 any further?

8 A. Uh -- (pause) -- well, I'd have to think
9 about that. (Pause) -- I guess it's like
10 following the law. If -- based on the
11 circumstances, if I felt that the person
12 should be put to death then -- (pause) -- uh,
13 -- (pause), I would not have a problem with
14 it.

15 Q. All right. And you understand by Judge
16 Dennis' instructions that the law never
17 requires a juror to vote for the death
18 penalty?

19 A. I understand, (affirmative nod).

20 Q. Now, you also noted on your questionnaire,
21 and I appreciate your candor, that either you
22 or family members or someone that you've been
23 close to have been victims of violent crimes?

24 A. Yes.

25 Q. Could you explain that a little bit?

1 A. Yes, I was the victim of rape, I was the
2 victim of being beaten, I was the victim of
3 being run over by a car, being harassed -- the
4 harassment went on over several years, the
5 rape just one time, the beatings were more
6 than once. I actually went to the emergency
7 room after one beating, got photographed and
8 nothing was done about it.

9 Q. In the course -- of course, I'm not trying
10 to pry or invade your privacy. I apologize
11 for having to ask these questions.

12 From that experience, when you heard Judge
13 Dennis read some of the charges on Friday, one
14 of the charges being a criminal sexual conduct
15 charge.

16 A. Yes.

17 Q. Would that cause you some difficulty or
18 concern, hearing that type of case if you were
19 serving as a juror, your prior experience?

20 A. I've thought about it since we were here
21 last Friday and I've analyzed it and I've come
22 to the conclusion that I am responsible enough
23 and intelligent enough to separate that and it
24 would not have an effect on, you know, what
25 happened -- what this defendant has been

1 accused of.

2 Q. Next I want to ask you, you understand
3 that Judge Dennis sort of told you that each
4 juror would have to come to their own decision
5 when deciding between life imprisonment
6 without the possibility of parole and the
7 death sentence?

8 A. Yes.

9 Q. And the law calls that an individualized,
10 reasoned moral judgment. Can you accept that?

11 A. Yes.

12 Q. And after hearing all the evidence, all
13 the circumstances, the judge's charge and, you
14 know, discussing and debating with eleven
15 other jurors, you could come to your
16 individualized, reasoned moral judgment?

17 A. Absolutely.

18 Q. If eleven jurors were going one way and
19 you had made up your own individualized,
20 reasoned moral judgment another way, would you
21 be able to stand your ground or would you just
22 say, 'You know, it's late. I'm hungry, it's
23 time to go home and have dinner.'

24 A. I would stand my ground.

25 Q. Okay. You could ask them to respect your

1 vote?

2 A. Yes.

3 Q. And they could ask you -- you would also
4 respect their vote?

5 A. Yes, I would.

6 MR. BLOOM: Thank you.

7 THE COURT: Anything else, Mr.
8 Durant?

9 BRUCE DURANT: No, sir.

10 THE COURT: Thank you very much,
11 Ms. Barker. I need to chat with the attorneys
12 for just a few moments. If you could step
13 out, we will be with you momentarily.

14 (JUROR NUMBER 11 EXITS COURTROOM)

15 THE COURT: I find Ms. Barker to be
16 qualified. Any objection from the State?

17 BRUCE DURANT: None, Your Honor.

18 THE COURT: Any objection from the
19 defense?

20 MR. BLOOM: We acknowledge that she
21 is qualified.

22 THE COURT: Thank you so much. Ask
23 Ms. Barker to step back in, please.

24 (JUROR NUMBER 11 ENTERS COURTROOM)

25 THE COURT: Thank you, Ms. Barker.

1 We've found that you're qualified to be a part
2 of the panel from which we will select our
3 jury tomorrow.

4 JUROR NUMBER 11: Okay.

5 THE COURT: That will take place at
6 9:30. That will occur in this courtroom. We
7 need to come here tomorrow. You'll be the
8 first person to have heard this: come to this
9 courtroom but the bailiff may take you over to
10 another courtroom where all the jurors will be
11 assembled until everybody is together, because
12 there will be a lot of people coming in and
13 out. We want to make sure that you all stay
14 together, kind of.

15 JUROR NUMBER 11: So look for the
16 bailiff.

17 THE COURT: Just look for the
18 bailiff. If somebody says 'I am going to take
19 you over there', don't think you're in the
20 wrong place.

21 JUROR NUMBER 11: Okay.

22 THE COURT: Just remember that
23 while you are still in the panel, until you
24 are dismissed, you are not at liberty to talk
25 about this case with anyone, you are not at

1 liberty to read anything about it or watch any
2 television programs; nor should anybody try to
3 talk with you about serving on the jury.

4 JUROR NUMBER 11: Okay.

5 THE COURT: Be here at 9:30 in the
6 morning. Also, be prepared to stay because if
7 you're selected, once we select the jury we're
8 going to start with the trial at that time.

9 JUROR NUMBER 11: Okay, so you are
10 saying that I am on a panel but not
11 necessarily selected as a juror?

12 THE COURT: (Affirmative nod), not
13 yet. You'll know that very -- pretty soon
14 after 9:30 tomorrow.

15 JUROR NUMBER 11: Okay.

16 THE COURT: It won't take us too
17 long, thirty minutes maybe and then we will be
18 done.

19 JUROR NUMBER 11: Okay.

20 THE COURT: Have a good afternoon
21 and we will see you there.

22 JUROR NUMBER 11: See you at 9:30.

23 (JUROR NUMBER 11 EXITS COURTROOM)

24 THE COURT: Juror Number 104,
25 Christopher Gaskins.

1 (JUROR NUMBER 104 ENTERS COURTROOM)

2 THE COURT: Good morning, Mr.

3 Gaskins. We are going to now continue the
4 process that we started on Friday. I am going
5 to have some questions that I am going to ask
6 of you and then the attorneys may, as well,
7 ask you some questions.

8 Just as you noted on Friday, none of
9 these questions are going to have any
10 "correct" answers to them. All that we ask is
11 that you be truthful and candid in your
12 responses and complete with your answers.
13 Will you do that?

14 JUROR NUMBER 104: Yes, sir.

15 THE COURT: Also, please know that
16 nothing that we ask you is an attempt to
17 invade any privacy, nor are we here to try to
18 change your mind about how you believe. You
19 are entitled to your beliefs and your
20 philosophies. We just ask that you share them
21 with us if they are addressed in any way.
22 Okay?

23 JUROR NUMBER 104: Okay.

24 THE COURT: But do not think that
25 you have to defend any of them because you do

1 not.

2 JUROR NUMBER 104: Okay.

3 THE COURT: I would remind you,
4 sir, that you are still under oath.

5 JUROR NUMBER 104: Okay.

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

9 VOIR DIRE EXAMINATION

10 BY THE COURT:

11 Q. Would you state your full name for the
12 record, please?

13 A. Christopher Allen Gaskins.

14 Q. Mr. Gaskins, since we were last together
15 on Friday, have you talked with anyone or
16 permitted anyone to talk with you or talked to
17 anyone, or permitted anyone to talk about this
18 case in your presence?

19 A. No.

20 Q. Have you watched any news accounts or read
21 any newspaper articles about this case?

22 A. No.

23 Q. On Friday, I mentioned a number of names
24 but I failed to mention two names that I need
25 to ask you about. Are you related by blood or

1 marriage, have any business dealings with or
2 socially or casually acquainted with either a
3 Jeff Osborne or Matt Casey?

4 A. Not that I am aware of, no.

5 Q. When you came today you were given a sheet
6 that sets forth three types of jurors, have
7 you had a opportunity to review that sheet?

8 A. Yes.

9 Q. Have you given some thought to which one
10 most accurately describes you?

11 A. Yes, sir.

12 Q. Which one would that be?

13 A. Type three.

14 Q. Okay, tell me what you mean by type three.
15 What is it that makes you think that you're a
16 type three?

17 A. I think that everyone deserves a fair and
18 just trial, that you must hear all the facts
19 before you could make a fair and just
20 decision. You can't decide whether someone is
21 guilty or not without hearing what's going on
22 in the case.

23 Q. Okay. All right, thank you for that. I
24 don't disagree with that. That's certainly
25 something that a juror would be expected to

1 be, a fair and impartial juror. That means
2 that -- I think another way of saying that is,
3 and I tell jurors this from time to time, 'I
4 told you that you will bring with you
5 everything you need to perform the task,
6 because all you're being asked to do is to
7 apply your commonsense, your sense of logic
8 and reason and your life's experiences.'

9 Everybody can do that. The question, and you
10 would have to say 'I will be fair and
11 impartial as a juror.' The second part, and
12 it really is all kind of encompassed in
13 everything that we're saying, is that a juror
14 has to have an open mind. Would you agree
15 with that?

16 A. Yes, sir.

17 Q. If they've predetermined anything, then
18 they're not being true to the oath of being
19 fair and impartial. Would you disagree with
20 that?

21 A. No, sir, I would not disagree with that.

22 Q. Okay. Let me set the stage, so to speak,
23 for the three (types of) jurors that we have.

24 A. Okay.

25 Q. As described.

1 A. Okay.

2 Q. You mentioned that you feel that type
3 three most accurately describes you, as I
4 understand it; is that correct?

5 A. Yes, sir.

6 Q. Obviously that's a case in which the jury
7 will have the responsibility of determining
8 the appropriate sentence for the crime of
9 murder, either life imprisonment without the
10 possibility of parole or the death sentence.
11 Okay?

12 A. Yes, sir.

13 Q. At the point that question is drafted,
14 that jury has already concluded something,
15 that the person who was charged with the crime
16 of murder, you've already heard all the
17 evidence concerning the charge. You -- while
18 you started that with that open mind and
19 promised to be fair and impartial, you would
20 have gone through the deliberations in the
21 first phase, evaluated the evidence and
22 concluded beyond a reasonable doubt that the
23 State had convinced you, and each of the
24 jurors, that the person accused was the person
25 that committed the crime; and, secondly, that

1 the crime was in fact murder.

2 Murder is the intentional killing of
3 someone with malice aforethought. That means
4 that they went out -- they wanted to kill
5 someone, they intended to do it, they were
6 motivated by an evil spirit, they had evil in
7 their mind and that's what they wanted to
8 carry out. As we would think about it, an
9 evil person doing it. No reason. No
10 justifiable motivation. They just wanted to
11 be mean and the person that they wanted to
12 kill, that's the person -- the person that was
13 killed was that person. They intended to do
14 that, there wasn't any question about that, it
15 wasn't a mistake, it wasn't an accident, it
16 wasn't self-defense. Okay?

17 A. (Affirmative nod).

18 Q. Also in this state we don't recognize
19 first degree, second degree, third degree. If
20 you've watched any programs you may have heard
21 that term. In this state the lesser-included
22 offense of murder are manslaughter and
23 involuntary manslaughter. They are -- they
24 both deal with killing someone.

25 Manslaughter is the killing of someone in

1 sudden heat of passion. Usually there is some
2 sufficient provocation. They were provoked to
3 take this action.

4 The crime that you just sat on and you
5 found the person guilty isn't that. You've
6 determined that's not manslaughter, it's
7 murder. They intended to do it and that it
8 was with malice.

9 The other was involuntary manslaughter and
10 -- that one, the person may not have even
11 intended it but they acted recklessly and the
12 law says, 'Okay, because of that, if someone
13 dies that is involuntary manslaughter.'

14 That has been ruled out also, so we're not
15 talking about that. Again, we are talking
16 about a malicious murder. Okay?

17 A. (Affirmative nod).

18 Q. And now you're at the point, because the
19 jury is going to determine where you're going
20 to go into a second phase, where in addition
21 to the evidence that you've heard now about
22 the crime itself, now you're going to hear
23 evidence which would be pertinent to and
24 important to deciding what the appropriate
25 punishment would be.

1 As I understand what you're saying, even
2 though you have been on a jury and convicted
3 this person beyond a reasonable doubt of the
4 crime of murder, you still have an open mind
5 as to what the proper punishment would be?

6 A. Yes, sir.

7 Q. Is that true?

8 A. Yes, sir.

9 Q. So you would not have predetermined
10 anything at that point?

11 A. Not at that point. I would still have to
12 decide which way he should go, if he should
13 just be in prison for life or ---

14 Q. That's good. It's important that you keep
15 an open mind in that second phase, for lots of
16 reasons. Number one, because we've both
17 agreed that a juror has to have an open mind
18 before he starts hearing the evidence. Do you
19 agree with that?

20 A. Yes, sir.

21 Q. That they have not predetermined -- in
22 fact, if you look at type one and type two,
23 both of those had predetermined something; had
24 they not?

25 A. Yes, sir.

1 Q. Because they'd heard and they'd found that
2 -- one said, 'well, we've convicted this
3 person of murder, my feeling is they ought to
4 get the death sentence.' Another said,
5 'Well, we have convicted this person of
6 murder. My feeling is that he has to have
7 life in prison.' But they hadn't heard any
8 evidence yet. So would you agree that is not
9 consistent with the oath that was taken?

10 A. No, sir, it is not consistent.

11 Q. So you would agree that you shouldn't do
12 that?

13 A. I agree. No, sir.

14 Q. All right, sir. As I understand it, you
15 wouldn't be in that position?

16 A. No, sir.

17 Q. That is very important because in this
18 state very seldom does a jury determine the
19 punishment in a murder case. Most of the time
20 the jury hears the first phase; that is,
21 determines whether the State provides evidence
22 sufficient to convict a person.

23 But if a jury finds that the State has
24 presented evidence and they've found a person
25 guilty beyond a reasonable doubt of the crime

1 of murder, typically what happens is that the
2 presiding judge says, 'Thank you very much.
3 You're excused.' Then the presiding judge
4 imposes a sentence.

5 The options for the judge, for murder in
6 that setting, are life without parole or some
7 amount less than life without parole but not
8 death. Do you understand that?

9 A. Yes, sir.

10 Q. Our law does not allow that to be a
11 possible punishment except in very limited
12 circumstances. That's one of the things that
13 you will hear in the second phase, because the
14 law says for the State to be entitled for you
15 to even consider a death sentence, it has to
16 prove the existence of at least one
17 aggravating circumstances. There are a number
18 that the statute defines and says that if
19 these are present and those have been
20 established beyond a reasonable doubt by the
21 evidence, then a jury, having determined as
22 being convinced that that exists, those
23 aggravating circumstances exist, may then
24 consider a death sentence -- but not before.

25 In fact, my instruction to you, if I was

1 trying this abstract case I would tell you
2 before we started, and after we started, that
3 you are to keep an open mind until the court
4 tells you to begin your deliberations.

5 The first thing that you have to do is
6 determine whether or not the State has
7 established an aggravating circumstance beyond
8 a reasonable doubt. Because if they haven't,
9 that's it. The only sentence that you can
10 impose is life without parole. You can't even
11 consider the death sentence. Okay? A. (No
12 verbal response).

13 Q. Would you have any problem following that
14 instruction?

15 A. No, sir.

16 Q. Okay. Let's assume that an aggravating
17 circumstance has been established. There are
18 a number. Let me just mention a couple.
19 Assume that case that we are talking about
20 dealt with a police officer or a child, both
21 of which would allow a jury to consider -- if
22 that's established, and let's assume that
23 you've considered the evidence and you're
24 convinced that it was a police officer or a
25 child. Then, only then would you have the

1 right to bring the death sentence to the
2 table. Do you understand that?

3 A. (Affirmative nod).

4 Q. Now, I would instruct you that just
5 because you found beyond a reasonable doubt
6 that there was an aggravating circumstance
7 that that meant that you had to bring back a
8 death sentence. In fact, the court will never
9 tell you what sentence you have to impose.
10 That's left to you. Okay?

11 A. Okay.

12 Q. It only says that because you found that,
13 then you have to consider all the
14 circumstances and decide what you believe to
15 be the most appropriate sentence.

16 It is my understanding, being a type three
17 juror as you have described, that at that time
18 you believe that you have the ability and
19 would be willing to apply your common sense,
20 your sense of logic and reason fairly and
21 impartially in analyzing the evidence and
22 decide what you believe to be the truth. Is
23 that correct?

24 A. Yes, sir.

25 Q. After deciding that, you could then make a

1 decision, assuming of course you found that an
2 aggravating circumstance existed beyond a
3 reasonable doubt, you could decide -- it may
4 be, based on the circumstances that have been
5 established and everything involved, that your
6 choice would be a death sentence even though
7 you could sentence them to life imprisonment
8 without the possibility of parole, you would
9 choose death over life imprisonment. Is that
10 correct?

11 A. Yes, sir.

12 Q. And you understand that if you did that,
13 after considering it all, -- and I'm not
14 asking you to tell me what they are, but there
15 are circumstances that you can conceive of and
16 think of that would -- that would warrant you
17 doing that. Is that correct?

18 A. Yes, sir.

19 Q. If you do, if you vote to do that and all
20 twelve agree, then you will sign a form --
21 that's one of the forms that you fill out,
22 that says 'yes, I impose a death sentence' and
23 you would sign your name? You could perform
24 that task, is that correct?

25 A. Yes, sir.

1 Q. And would, if you so felt that after
2 applying the law and decided the true facts?

3 A. Yes, sir.

4 Q. Likewise, you could also consider that and
5 decide 'well, I have an option of imposing the
6 death sentence but in this circumstance, I
7 believe that the better sentence is life
8 without parole' and would therefore not impose
9 a death sentence but impose a life sentence.
10 You could do that, as well?

11 A. Yes, sir.

12 Q. Whatever your decision, it would be fair
13 and impartial?

14 A. Yes, sir.

15 Q. Now, please understand something. In
16 addition to the aggravating circumstances and
17 other factors that may be very helpful in
18 making that determination, you also are going
19 to be instructed to consider any mitigating
20 circumstances. Mitigating circumstances, just
21 as that name would imply, are circumstances --
22 some may be statutory, some may be
23 nonstatutory, just common sense mitigating
24 circumstances, that tend to say 'Well, yeah,
25 it's risen because of the aggravating

1 circumstance(s) to the level where I could
2 consider a death sentence but these are
3 circumstances that I need to consider in
4 fashioning a sentence because they have some
5 affect on my decision' -- or could have some
6 affect. Not that they would, I am not
7 suggesting any of this -- that you have to
8 decide one way or the other. Do you under-
9 stand that?

10 A. Yes, sir.

11 Q. But some of the statutory mitigating
12 circumstances would be that a person may have
13 suffered from an addiction, may have been
14 under the influence of some drug or some
15 medication. They may have some mental or
16 emotional problem that they've been treated
17 for all their life that you say, 'Well, yeah,
18 that doesn't excuse it' -- in other words, it
19 doesn't rise to something that would excuse it
20 or justify it but you say, 'Okay, I see. That
21 explains or may be some explanation for why
22 they may have acted the way that they did.'

23 It may be evidence of some problem that
24 they had with being brought up, how they were
25 raised, child abuse or that sort of thing.

1 There are a statutory -- and, again, that
2 would be instructed to you. But what would be
3 instructed would be that you -- you would be
4 instructed to consider and give meaningful
5 consideration to any mitigating circumstances.
6 That means that you think about it, weigh it
7 and make a decision as to whether or not it
8 would affect your ultimate decision. Would
9 you be able to follow that instruction?

10 A. Yes, sir.

11 Q. I would also instruct you that the person
12 accused of committing an offense doesn't have
13 any burden to prove anything or establish
14 anything. They don't even have to present
15 evidence. They don't have to testify if they
16 don't want to and you can't use that against
17 them. Any problem following that principle of
18 law?

19 A. No, sir.

20 Q. In fact -- that applies to either phase,
21 but in the second phase if there are no
22 mitigating circumstances you can't hold that
23 against a person because they don't have an
24 obligation to offer that. Do you understand
25 that?

1 A. Yes, sir.

2 Q. Would you have any problem following that
3 instruction, as well?

4 A. No, sir.

5 Q. I would also instruct you that in addition
6 to everything that we've said, it would be the
7 right of the jury to return a sentence of life
8 imprisonment even though it could return a
9 death sentence, for no reason at all. Would
10 you have any problem considering that, as
11 well? In other words, your right to just
12 return a life sentence without any reason?

13 A. I -- yes, sir, that could be a
14 possibility.

15 Q. All right. And you would give
16 consideration to that? I am not saying that
17 you would do it or not do it, I am just asking
18 if you would consider that in determining what
19 your option is?

20 A. I would consider that as a possibility.

21 Q. Again, I am not asking you to commit to
22 anything. I am just saying that the court
23 would give you that instruction and you would
24 listen to that and apply that to everything
25 else that you would have to consider in

1 determining -- and, again, the decision that
2 you have to make is one that you're satisfied
3 is a fair, just decision based on all the
4 circumstances and the law. You could do that?

5 A. Yes, sir.

6 Q. And would do that?

7 A. Yes, sir.

8 Q. All right, let's -- we're finished with
9 that abstract case. Let's focus on this case
10 that we've been -- that brings you here today,
11 for just a moment.

12 As I mentioned to you, Mr. Dickerson has
13 been accused of several crimes. I believe you
14 stated that you have no problem with the
15 presumption of innocence that he is entitled
16 to, as is anyone charged with criminal
17 offenses.

18 That's an active presumption. It means
19 that you have to see any person who is accused
20 of a crime as being innocent until and unless
21 the State persuades you otherwise. I ask you
22 today, as you see Mr. Dickerson, do you
23 consider him to be innocent of these charges
24 as far as you're concerned?

25 A. Yes, sir.

1 Q. And you would be willing to maintain that
2 position throughout if you were selected on
3 the jury, throughout the trial until you got
4 to the point where the court told you to begin
5 your deliberation to decide whether or not the
6 State had convinced you otherwise?

7 A. Yes.

8 Q. And you wouldn't change until you
9 considered the evidence and applied the law
10 and concluded that, 'yes, I am convinced
11 beyond a reasonable doubt that the State has
12 established each of the elements of that
13 particular crime'; and then you would return a
14 verdict of guilty, which would give you the
15 right to change that position. But until then
16 would you maintain that position?

17 A. Yes, sir.

18 Q. And you've heard nothing that would give
19 you any concern about your ability to be a
20 fair and impartial juror, a fair and impartial
21 judge in this case?

22 A. No, sir, I have not.

23 Q. And would you be willing and able to
24 commit to the court and to each of the parties
25 that you would take the law as I gave it to

1 you and apply that law fairly and impartially
2 to the facts that you determine?

3 A. Yes, sir.

4 Q. Including, if necessary, setting aside any
5 strong feelings or beliefs that you may have
6 about what the law should be, could be or you
7 thought it was or -- or that it just doesn't
8 agree with how you think and feel? You would
9 be willing to set that aside and apply the law
10 fairly and impartially?

11 A. Yes, sir.

12 THE COURT: Thank you, sir. Answer
13 any questions that the attorneys may have,
14 sir.

15 VOIR DIRE EXAMINATION

16 BY MR. BLOOM:

17 Q. Mr. Gaskins, good afternoon, sir. How are
18 you doing this afternoon, sir?

19 A. Pretty good.

20 Q. My name is Jeff Bloom and along with
21 Andrew Carroll, who is out of the courtroom
22 right now, we represent William Dickerson. I
23 just have a few followup questions from what
24 Judge Dennis asked you. Okay?

25 A. (Affirmative nod).

1 Q. Would you tell me, if we were just
2 standing around talking and the topic of the
3 death penalty came up -- not this case but
4 just the general topic, what is your opinion
5 about the death penalty?

6 A. I don't have a solid opinion about the
7 death penalty. It all depends on all the
8 circumstances surrounding it. I've never
9 actually heard or seen of anyone having a
10 death penalty before, that I can honestly
11 remember. I've seen people die and I've heard
12 about crimes but I've never once heard of
13 someone getting -- being sentenced to death,
14 not that I remember, not since I was a young
15 child has there ever been a time when I've
16 heard anyone talking or talked to anyone about
17 that kind of subject.

18 I mean, it would all depend on what's gone
19 on, what that person did, how it happened.

20 Q. Okay. You said probably since you were a
21 young child? I am not sure that I understand
22 that.

23 A. (No verbal response).

24 Q. Can you tell me what you mean by that?

25 A. Last time I remember hearing about the

1 death penalty was when I was younger, when
2 they were getting rid of it -- in Texas. I
3 just remember hearing about it.

4 Q. Then you also made a comment that you'd
5 seen people die. You'd seen that in like
6 newspaper and things like that or is there a
7 personal experience that you have had?

8 A. Personal experience. I was actually a
9 witness to my father.

10 Q. Can you explain that to me?

11 A. It was suicide and I came in right after
12 it happened.

13 Q. I am sorry to have to ask you about that.

14 A. That's fine.

15 Q. Is there anything about that tragic
16 personal experience that might make it
17 difficult for you to serve on a case like this
18 where you're deciding facts about a homicide?

19 A. I don't think it would have anything to do
20 with this case. That was a completely
21 different situation. I know the reasons that
22 it happened.

23 Q. Thank you, sir. I appreciate your being
24 as candid as you've been.

25 I just have a few followup -- His Honor

1 defined for you the terms "murder" and "malice
2 murder." Some people, as soon as they find
3 someone guilty of murder, they are going to
4 automatically decide then and there that they
5 are going to automatically vote for the death
6 penalty. I take it that is not you?

7 A. I see no reason to impose the death
8 sentence automatically.

9 Q. Okay. And His Honor also explained
10 mitigating circumstances, which is a legal
11 phrase and he gave you some examples in terms
12 of substance abuse, drug addiction, mental
13 health, how a person was raised. Some jurors
14 just feel their belief is so strong that they
15 don't want anything to do with that. They
16 just don't think that's important. I take it
17 that's not you. That is important to you?

18 A. Yes, sir.

19 Q. You could give meaningful consideration to
20 that?

21 A. Yes.

22 Q. All right. Lastly, Judge Dennis of course
23 told you that any time a juror is deciding
24 between the ultimate punishment and life
25 without parole that that is an individual

1 choice. You understood that?

2 A. Yes, sir.

3 Q. The law never requires you to vote for the
4 ultimate punishment.

5 A. No, sir.

6 Q. And what I want to ask you -- the law also
7 calls that an individualized, reasoned moral
8 judgment. Can you accept that?

9 A. Yes, sir.

10 Q. All right. If after you'd heard all the
11 evidence, all the circumstances, accepted the
12 law as Judge Dennis gave it to you and you
13 were discussing things with the other eleven
14 jurors and all of you talked back and forth,
15 deliberated, you'd heard them, they'd heard
16 you, but you'd came to your own
17 individualized, reasoned moral judgment,
18 eleven jurors were going the other way but you
19 were -- you had made your judgment after
20 considering and talking about everything,
21 could you stand your ground or would you just
22 give up your vote and go along to get along?
23 A. I would have to say at that point I'd
24 stand my ground.
25 Q. You would ask them to respect your vote?

1 A. (Affirmative nod).

2 Q. And they would -- and, likewise, you would
3 respect theirs?

4 A. (Affirmative nod).

5 MR. BLOOM: Thank you very much,
6 Mr. Gaskins.

7 JUROR NUMBER 104: Thank you.

8 THE COURT: Mr. Durant?

9 BRUCE DURANT: Thank you, Your
10 Honor.

11 VOIR DIRE EXAMINATION

12 BY BRUCE DURANT:

13 Q. Good afternoon, Mr. Gaskins. My name is
14 Bruce Durant. I'm the Deputy Solicitor. This
15 is Solicitor Wilson, she is the Solicitor.
16 This is Rutledge Durant. The three of us will
17 be handling this case on behalf of the State.

18 A. Okay.

19 Q. I just have a couple of questions that I
20 want to ask you. The judge has already
21 explained this to you and I just want to be
22 sure, because the law requires -- you
23 understand that the law requires more than
24 your just being able to consider the
25 possibility of imposing a death sentence.

1 You'd actually have to be prepared to vote for
2 that in accordance with the judge's
3 instructions if you believe that it is an
4 appropriate case. You could do that?

5 A. Yes, sir.

6 Q. Can you sign your name to a verdict form
7 which -- a part of which requires that a
8 defendant be put to death?

9 A. Yes, sir.

10 BRUCE DURANT: Thank you, sir. I
11 have nothing else.

12 THE COURT: Anything further, Mr.
13 Bloom?

14 MR. BLOOM: Nothing further, Your
15 Honor.

16 THE COURT: Mr. Gaskins, thank you
17 very much. If you would step out for just a
18 second, we will be with you momentarily.

19 (JUROR NUMBER 104 EXITS COURTROOM)

20 THE COURT: I find Mr. Gaskins to
21 be qualified. Any objection from the State?

22 BRUCE DURANT: No, sir.

23 THE COURT: From the defendant?

24 MR. BLOOM: No, Your Honor.

25 THE COURT: Ask him to come in,

1 please.

2 (JUROR NUMBER 104 ENTERS COURTROOM)

3 THE COURT: Mr.. Gaskins, thank you
4 so much. We appreciate your patience. You've
5 been found to be qualified to be a member of
6 the panel from which we will select our jury.

7 That will take place tomorrow morning
8 at 9:30 in this courtroom.

9 JUROR NUMBER 104: Okay.

10 THE COURT: I need for you to be
11 here by 9:30, please. Come directly to the
12 courtroom. They may take you from this
13 courtroom or take you to another courtroom to
14 wait until everybody is here. Just follow the
15 bailiff's instruction. When we come in, we
16 will select our jury.

17 Once the jury is selected, we will
18 start the trial. So be prepared to stay in
19 case you're selected on the jury, because we
20 will start working immediately.

21 JUROR NUMBER 104: Okay.

22 THE COURT: Please know that until
23 you're dismissed that you're expected to
24 continue to not discuss this case with anyone
25 or permit anyone to talk with you about it,

1 talk about it in your presence. Also, do not
2 read any newspaper articles or watch any
3 television programs. Have a great evening and
4 I will see you tomorrow morning at 9:30.

5 JUROR NUMBER 104: Yes, sir. Thank
6 you.

7 THE COURT: You bet.

8 (JUROR NUMBER 104 EXITS COURTROOM)

9 THE COURT: The next one is Number
10 69, please.

11 (JUROR NUMBER 69 ENTERS COURTROOM)

12 THE COURT: Good afternoon. How
13 are you, sir?

14 JUROR NUMBER 69: Good afternoon.

15 THE COURT: If you will sit and
16 pull yourself up so that you can speak into
17 that mic comfortably.

18 I appreciate your patience. We are
19 going to continue the process that we started
20 on Friday. There are some questions that I am
21 going to have for you and that the attorneys
22 may have for you. As you noticed on Friday
23 with those questions, there are no correct
24 answers to any of these questions.

25 All of them are designed to assist

1 you and us in determining whether you'd be a
2 fair and impartial juror in this case. They
3 are not here to challenge any belief or
4 philosophies that you have. You are entitled
5 to those, so don't think that you have to
6 defend them for any reason.

7 We just ask that you be truthful and
8 candid in responding to the questions and
9 fully answer the questions. Will you do that,
10 sir?

11 JUROR NUMBER 69: I will.

12 THE COURT: Thank you, sir. I
13 would remind you, sir, that you are still
14 under oath in this matter.

15 JUROR NUMBER 69: (Affirmative nod).

16 JOHN DEDEN, being duly sworn to tell
17 the truth, the whole truth and nothing but the
18 truth, testified, as follows:

19 VOIR DIRE EXAMINATION

20 BY THE COURT:

21 Q. Would you please state your full name for
22 the record?

23 A. John David Deden.

24 Q. Mr. Deden, since we were together on
25 Friday, have you talked with anyone, permitted

1 anyone to talk with -- have you talked to
2 anyone or permitted anyone to talk to you
3 about this case or talk about it in your
4 presence?

5 A. No.

6 Q. Have you watched any news programs or
7 read any newspaper accounts about this case?

8 A. No, I haven't.

9 Q. On Friday, I mentioned a number of names
10 but I failed to mention two names that I need
11 to ask you about. Are you related by blood or
12 marriage, have any business dealings with or
13 are you socially or casually acquainted with
14 either Jeff Osborne or Matt Casey?

15 A. No, sir.

16 Q. When you arrived today you were given a
17 sheet that listed three types of jurors, have
18 you had a opportunity to review those three
19 types of jurors?

20 A. I have.

21 Q. Have you reflected on which one most
22 accurately describes you?

23 A. I have.

24 Q. Which one do you believe best describes
25 you?

1 A. I would say type two.

2 Q. Tell me what type two is to you and why
3 that describes you.

4 A. Number three doesn't take into, uh, moral
5 account murder. I would say the only time --
6 well, I wouldn't say the death penalty but the
7 only time that I would consider it murder is
8 any time when you're not defending somebody
9 else.

10 Q. So ---

11 A. Did I answer that right, did that make
12 sense?

13 Q. Let me ask you this question, if somebody
14 is defending somebody else that would not --
15 that could be self-defense or ---

16 A. (Affirmative nod), that would not be
17 murder.

18 Q. --- the defense of others?

19 A. Right. Yes, sir.

20 Q. Okay.

21 A. The only time that I would see the death
22 penalty is if I saw evil or -- I assume that
23 could happen, murder could happen then.

24 Q. So my understanding is one that it would
25 be one that you've witnessed yourself, is that

1 yourself?

2 A. No, sir. One that I believe ---

3 Q. Okay.

4 A. --- in the future that it would be ---

5 Q. I'm with you. If in evaluating it you
6 believed there was some future risk of ---

7 A. (Affirmative nod), some future risk.

8 Q. All right. So, basically, your position
9 is that you're opposed to the death penalty
10 but, as I understand what you just said, there
11 are circumstances where you could impose a
12 death sentence if those circumstances were
13 present and, again, were established beyond a
14 reasonable doubt?

15 A. Yes, sir.

16 Q. Okay. Let's talk about that abstract
17 case that we have there.

18 A. Okay.

19 Q. I want to lay some foundation here.

20 A. Okay.

21 Q. At this point -- okay?

22 A. (Affirmative nod).

23 Q. --- there is one thing that we know. We
24 know that you're in the middle, you've already
25 gone through a first phase where the crime

1 itself has been presented to you as a member
2 of the jury.

3 A. Okay.

4 Q. The offense of murder.

5 A. Okay.

6 Q. You're heard evidence about that. In
7 fact, you've sat with the jurors, you've
8 deliberated and you have decided that the
9 person that the State arrested and charged was
10 in fact the correct person who committed the
11 crime.

12 Furthermore, than the crime that was
13 committed was murder. In other words, there
14 wasn't any self-defense, there wasn't any
15 justification, there was no accident, there
16 was no reason for doing what they did, that it
17 was murder -- which is the killing of another
18 with malice aforethought.

19 A. Okay.

20 Q. It was a malicious act.

21 A. Okay.

22 Q. They were motivated by evil intent, by
23 hatred, wickedness, they'd committed
24 something, they had no rational basis for
25 doing so.

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Jury Trial of April 20 - May 7, 2009
Before The Honorable R. Markley Dennis, Jr.

1 A. Okay.

2 Q. No legal basis for doing so. Okay?

3 A. Okay.

4 Q. It is not also -- in this State -- some
5 have mentioned first, second and third degrees
6 of murder. We don't have degrees in this
7 state. What we have in this state is the
8 offense of murder, which is the killing of
9 another with malice aforethought -- the
10 intentional killing of another with malice.

11 A part of that, the jury may consider
12 from time to time, a lesser-included offense
13 called voluntary manslaughter, which is the
14 killing of somebody in the sudden heat of
15 passion. They've been provoked by something
16 that would justify sufficient provocation to
17 cause them to be so angry that they couldn't
18 control themselves and killed somebody.
19 That's not what you've heard, you've concluded
20 that it is not manslaughter.

21 A. Okay.

22 Q. It was an intentional killing with
23 malice.

24 A. Okay.

25 Q. The other is involuntary manslaughter,

1 which is the killing sometimes where a person
2 may not even have intended it but they acted
3 so recklessly that it was involuntary
4 manslaughter.

5 A. Okay.

6 Q. But, again, that's been eliminated, too.
7 That's not what we're talking about.

8 A. Okay.

9 Q. We're talking about an intentional act by
10 somebody who wanted to kill somebody for no
11 real reason, no justified reason, they went
12 out and performed the act and now they've been
13 caught and they've been convicted for it.

14 Okay.

15 A. Okay.

16 Q. Now, the second phase, you're about to go
17 into the second phase where in addition to the
18 evidence of the crime you're going to hear
19 other evidence about this person, about the
20 circumstances surrounding the crime itself and
21 those are all -- would be evidence that would
22 be important to a jury, and you would be
23 instructed that you would be expected to apply
24 your common sense, your sense of logic and
25 reason fairly and impartially in analyzing

1 that evidence and deciding what you believe to
2 be the truth. Okay?

3 A. Okay.

4 Q. As I understand it, notwithstanding your
5 feelings or your inclination of what I
6 understand what you're saying would be 'Well,
7 I don't believe in the death penalty. I would
8 prefer life imprisonment but.--' ---

9 A. Right.

10 Q. --- 'there are circumstances where I
11 would impose a death sentence if I believed
12 strongly enough and that circumstance had been
13 established'? Is that correct?

14 A. (Pause) -- I believe so.

15 Q. Okay. The only reason that I ask that is
16 that what you would have said to everybody
17 when you started this process, and I take it
18 to be an important part of a juror, is that I
19 am going to be fair and impartial. 'Yes, I
20 have stated to you what I believe as a person'
21 but what you're saying to me as the judge is
22 that -- because I would instruct you -- and
23 let me go on a little further.

24 A. Okay.

25 Q. First of all, let's talk about this whole

1 situation. Normally in this state when a
2 murder, when a jury finds that a person is
3 guilty of murder the judge in that case tells
4 the jury 'thank you very much, your service
5 has been completed.' The jury doesn't
6 participate in sentencing. The judge, after
7 the jury leaves, typically says, 'Okay, I am
8 going to impose a sentence.' The maximum
9 sentence that the judge can legally impose is
10 life imprisonment without the possibility of
11 parole. We don't have to impose that, we can
12 impose a number of years less than that but
13 that is the maximum sentence but we cannot
14 impose the death sentence. That is not even
15 on the table.

16 A. Okay.

17 Q. This is one of those circumstances that
18 is -- this abstract case where it can be on
19 the table but this is what the State says,
20 that the Legislature had provided. Normally
21 the offense of murder doesn't warrant the
22 death sentence but if the State proves beyond
23 a reasonable doubt certain -- at least an
24 aggravating circumstance. There are a number,
25 there may be more than one. An aggravating

1 circumstance is what the Legislature has
2 defined as saying 'if these are established
3 beyond a reasonable doubt' then a jury would
4 have the right to impose a death sentence.

5 Okay?

6 A. Okay.

7 Q. So the first thing that has to be done in
8 the second phase is to determine whether or
9 not those circumstances are present. There
10 are a number of them. Okay?

11 A. (Affirmative nod).

12 Q. For purposes of our discussion, just to
13 mention two, one would be the killing of a
14 child and the other would be the killing of a
15 police officer.

16 If that is established beyond a reason-
17 able doubt and it was murder, then that jury
18 would be instructed that they may consider a
19 death penalty. They wouldn't have to -- the
20 court will never tell the jury that they have
21 to impose it, only that they can consider a
22 death sentence.

23 Then at that point the jury would have to
24 evaluate all of the evidence concerning the
25 circumstances and all of the evidence in the

1 second phase and make the decision of which
2 one was the most appropriate. Okay?

3 A. Okay.

4 Q. I understand what you told me about being
5 a type two, which says 'I really am kind of a
6 life imprisonment person' but I also
7 understand what you said was 'yeah, but there
8 are some circumstances where I could impose a
9 death sentence.'

10 A. (Affirmative nod).

11 Q. As I understand that, what -- when we get
12 to this point that we're talking about -- and
13 I am not asking you to describe those
14 circumstances for me, okay?

15 A. (Affirmative nod).

16 Q. I am not asking you to tell me what it is
17 going to take to switch from one to the other,
18 I am just asking you consistent with my
19 instruction, notwithstanding your strong
20 belief about life imprisonment and the death
21 penalty, you could evaluate the evidence,
22 consider all of the circumstances and decide
23 whether or not to impose a life imprisonment
24 without the possibility of parole or a death
25 sentence?

1 A. (Pause) -- I couldn't -- unless I saw
2 that it was evil and ---

3 Q. I am not asking you ---

4 A. Okay.

5 Q. When you say "saw", does that mean that
6 you have to visibly see ---

7 A. No, no, I ---

8 Q. "Saw" to me is something that says "I am
9 convinced", I am ---

10 A. Right, if I was convinced that it was
11 evil.

12 Q. Whatever, I am just asking you. I am not
13 asking you to state the parameters. I am
14 just asking you, there are circumstances that
15 exist in your mind -- if those are present in
16 that situation and you were given the option,
17 you would weigh both sentences and you would
18 -- you may give life imprisonment or you might
19 give a death penalty but you won't know until
20 you're there?

21 A. Yes.

22 Q. But you could -- if those circumstances
23 are present -- impose a death sentence?

24 A. I could.

25 Q. That's -- because what the important

1 thing is, what you were telling me, and that's
2 what you would be committing to do, would be
3 that you would be setting aside my strong
4 feelings that I have, and as I told you, you
5 have the right to have those but the question
6 is, can you set those aside and follow the law
7 and make a decision as to whether or not this
8 is one of those circumstances that you believe
9 warrants that death penalty?

10 A. That I personally ---

11 Q. --- could do that?

12 A. --- could?

13 Q. That you could vote for a death sentence
14 in a certain situation?

15 A. (Affirmative nod), in a certain
16 situation.

17 Q. All right.

18 A. Yes. It would be a tough decision.

19 Q. I understand that. There are -- there is
20 no such thing as easy decisions in criminal
21 cases, whether it is this or any of it. I
22 assure you. Somebody mentioned today, 'I
23 don't want to be a part...it would be tough to
24 be sentencing.' Tell me about it, you --
25 there is no pleasure in that. That's part of

1 our job and that's what you -- by being here,
2 by going through this process. If you make it
3 to the part where you're part of the pool,
4 what you're saying is that, 'it is not
5 something necessarily that I want to do but
6 it's something that I've been chosen, I've
7 been selected to be potentially a juror and if
8 I am selected, I will do it notwithstanding my
9 feelings.' Would you -- does that apply to
10 you?

11 A. I believe that my feelings would have --
12 would enter into it.

13 Q. I understand that but ---

14 A. But I would ---

15 Q. --- would they prevent you from following
16 my instructions and being fair and impartial
17 to both sides, not just the person accused of
18 murder but the State as well?

19 A. I would be fair and impartial.

20 Q. Because what you're saying here today is,
21 you're saying to both Mr. Dickerson and to the
22 State, 'Listen, this is my strong feeling but
23 there are circumstances where I could and
24 would impose a death sentence.'

25 A. I ---

1 Q. 'I am not going to tell you what they are
2 but I am telling you that there are
3 circumstances that if I saw it that I would do
4 that' and wouldn't have, 'I wouldn't have any
5 hesitancy.'

6 A. Strong circumstances.

7 Q. Well, whatever.

8 A. Yeah.

9 Q. But there are circumstances?

10 A. Yes, Your Honor.

11 Q. Okay. All right. And you would be fair
12 in performing that task?

13 A. I would.

14 Q. You would certainly be instructed and
15 expected to consider all the evidence and that
16 would include any mitigating circumstances
17 that may exist in the second phase? Those are
18 circumstances that may tend to lessen the
19 effects of the crime of murder; in other
20 words, move it back towards that normal
21 situation, such as addictions, drug
22 involvement, maybe child raising issues that
23 occur, some mental issues that may not justify
24 an action or excuse it but may give some
25 explanation for a person's -- that type of

1 evidence. There are a number of statutory
2 mitigating circumstances and some
3 nonstatutory, just common sense, but you would
4 give due consideration ---

5 A. I would.

6 Q. Consider those as well before fashioning
7 any sentence, is that correct?

8 A. Yes, sir.

9 Q. And all -- and your consideration of all
10 the evidence would be meaningful
11 consideration, to both sides?

12 A. Yes, it would.

13 Q. In other words, you would carefully
14 evaluate the evidence -- totally?

15 A. (Affirmative nod).

16 Q. I would also instruct you as a part of
17 the instruction that the jury has the right to
18 bring, to return a sentence of life without
19 parole, notwithstanding that you could have
20 imposed a death sentence, for no reason if you
21 so choose to. Okay?

22 A. (No verbal response).

23 Q. Weighing all the options, it's my
24 understanding that you could carry out my
25 instruction?

1 A. I could.

2 Q. Very well. Now, let's set the abstract
3 case aside for a moment and let me ask you
4 about this case. Mr. Dickerson, as I
5 mentioned on Friday, has been accused of
6 several criminal offenses and I believe that
7 you stated that you have no problem with the
8 principle of law of being presumed innocent
9 until proven guilty?

10 A. I do not.

11 Q. And as I mentioned, that's an active
12 presumption which means that we -- anyone who
13 is not the person accused has to look at that
14 individual as being innocent. Today, do you
15 believe Mr. Dickerson is innocent of these
16 charges?

17 A. Yes, I do.

18 Q. And would you be willing to promise to
19 maintain that position until the court told
20 you to begin your deliberation and you were
21 then instructed to analyze the evidence and
22 you wouldn't change until you, after analyzing
23 the evidence, were convinced beyond a
24 reasonable doubt that he committed the acts
25 for which he stands accused?

1 A. I could do that.

2 Q. Because you understand that if after the
3 evidence that you were convinced that the
4 State would have met its burden of proof and
5 now you have the right, as a matter of law, to
6 say that he is guilty as charged?

7 A. Yes, sir.

8 Q. In fact, that is what you would be duty
9 bound to do?

10 A. (Affirmative nod).

11 Q. You could perform that function?

12 A. I could.

13 Q. And I think we have already covered this
14 with the abstract but let me be sure. In this
15 case you have heard nothing that would give
16 you any concern about your ability to fairly
17 and impartially apply your common sense, your
18 sense of logic and reasoning?

19 A. Yes, sir.

20 Q. And as you stated in the abstract, you
21 would also do the same for me in that you
22 would follow my instruction and set aside any
23 personal beliefs that you may have and not let
24 that interfere with you but carry it out as
25 you stated here today?

1 A. I don't think anyone can one hundred
2 percent set aside their personal belief.

3 Q. Well, they have to set it aside in this
4 respect, if you are selected and you raise
5 your hand, what you've said here today is that
6 'if I see the right factual situation, if it
7 meets that definition...' -- my definition --
8 'of circumstances, I could impose and will
9 impose a death sentence.' That's what you are
10 saying?

11 A. (No verbal response).

12 Q. That is setting it aside as far as I am
13 concerned. I am not suggesting that is what
14 you have to do, I am not suggesting that is
15 what is going to happen, I am not suggesting
16 that is even on the table at all.

17 I am just saying that what you're
18 promising through this process is, if it comes
19 to that and we get to that point and you're
20 there, that notwithstanding what you would
21 like to do, what would be most comfortable for
22 you to do, because you have made a commitment
23 as I see it, that 'I will do what I promised
24 that I will do.' That is, 'notwithstanding
25 how I personally feel about the death penalty,

1 I would in this case because I believe that it
2 is warranted.' That is what it is all about,
3 under these circumstances it is justified and
4 it is proper. That's all that we are asking
5 you to do.

6 As I understand, there are circumstances
7 that you can think of that would cause you to
8 vote for a death penalty?

9 A. There is, (affirmative nod).

10 THE COURT: Thank you. All right.
11 Please answer any questions that the attorneys
12 may have.

13 VOIR DIRE EXAMINATION

14 BY BRUCE DURANT:

15 Q. Is it Deden or Deden?

16 A. Deden.

17 Q. Good afternoon, Mr. Deden. My name is
18 Bruce Durant, I'm the Deputy Solicitor. This
19 is Scarlet Wilson, she is the Solicitor.
20 Rutledge Durant. We will be handling this
21 case on behalf of the State of South Carolina.

22 We've had the opportunity to have the
23 questionnaire that you filled out for the
24 court, we're aware of the answers that you put
25 down there. I just want you to be clear on

1 one thing. You understand that to perform
2 your service as a juror in this case, you
3 would have to do more than just pay lip
4 service to imposing a sentence of death?

5 A. Yes, I do.

6 Q. Okay. You have to be fair to put your --
7 you understand that you have to be fair, to
8 put your personal and religious feelings
9 aside?

10 A. (Affirmative nod).

11 Q. And in the appropriate case, vote on a
12 penalty which you have termed in your
13 questionnaire as being "immoral".

14 A. Yes.

15 Q. You told the Judge when he was talking to
16 you that you -- do you understand that if you
17 get to that point in a trial, because as you
18 said this is kind of a two trial process.

19 You have the first trial to determine
20 guilt or innocence, assuming that the State
21 meets its burden of proof.

22 Now you'd move on to the second phase to
23 determine the sentence. Assuming in that case
24 that the State proves an aggravating
25 circumstance, and I believe Judge Dennis told

1 you a couple but there are many others, uh,
2 then and only at that point could you
3 actually, or the jury actually, vote for a
4 sentence of either death or life without
5 parole. Do you understand that?

6 A. I do.

7 Q. So you understand that death and life
8 without parole are always going to be on the
9 table at this point?

10 A. I do.

11 Q. Can you envision a situation, given your
12 background in the Catholic church, that you
13 would impose a death sentence as opposed to a
14 sentence of life without parole?

15 A. I can, but it would be rare.

16 Q. And would that be for something that is
17 personal to you?

18 A. I don't know. Yes, if we were -- we were
19 talking something evil, that is not a ---

20 THE COURT: I am not going to allow
21 you to delve into that. He's expressed that.
22 I asked him specifically did it have to be him
23 involved and he said no, that it was his
24 perception of evil.

25 JUROR NUMBER 69: It is not personal

1 but -- (pause).

2 EXAMINATION CONTINUED

3 BY BRUCE DURANT:

4 Q. Well, you understand that the law
5 authorizes the imposition of the death penalty
6 in -- and I guess my question is this, the law
7 authorizes the death penalty in cases of
8 certain aggravating circumstances. Could you
9 consider that in the event of the aggravating
10 circumstances that might be proven to you?

11 A. (No verbal response).

12 THE COURT: Mr. Durant, you're
13 asking him to do something that I am not going
14 to allow you to do. You are going to have to
15 take what he said and apply it, sir. Thank
16 you.

17 BRUCE DURANT: Okay.

18 EXAMINATION CONTINUED

19 BY BRUCE DURANT:

20 Q. Just one other question, wouldn't this
21 put you in pretty much a hopeless moral
22 dilemma?

23 THE COURT: No. You're challenging
24 him now, his beliefs. I am not going to allow
25 that, I am not going to permit that question,

1 sir. He's answered and said that he would do
2 it.

3 BRUCE DURANT: Thank you, Your
4 Honor.

5 THE COURT: Thank you.

6 MR. BLOOM: Very briefly, Your
7 Honor.

8 VOIR DIRE EXAMINATION

9 BY MR. BLOOM:

10 Q. Mr. Deden, how you doing this afternoon,
11 sir?

12 A. Fine, sir.

13 Q. My name is Jeff Bloom and along with
14 Andrew Carroll, who is out of the courtroom
15 right now, we represent William Dickerson. I
16 just have a few followup questions.

17 You understood the court, the Judge
18 explain that each juror has to come to their
19 own choice?

20 A. Yes, I did.

21 Q. Decide whether the sentence ought to be
22 the ultimate punishment or life without
23 parole?

24 A. Yes, sir.

25 Q. The law calls that an individualized,

1 reasoned moral judgment. I take it that you
2 could make that?

3 A. I can.

4 Q. All right. After you heard all the
5 evidence and all the circumstances and the law
6 that Judge Dennis gave you, if you were to
7 decide with the other eleven jurors and they
8 were voting one way and you were voting
9 another, you wouldn't just give up your vote
10 to go along to get along and get out in time
11 to go home to dinner, would you?

12 A. I wouldn't do anything that I personally
13 didn't -- that would be immoral for me to 'go
14 with the crowd.'

15 Q. To just give up your vote?

16 A. I wouldn't give up my vote, no.

17 Q. If it were 5:00 o'clock and you wanted to
18 get home in time for dinner, you wouldn't just
19 give up your ---

20 A. No, I wouldn't.

21 Q. All right. And you would be able to
22 stand by that individualized, reasoned moral
23 judgment based on all the evidence, the law
24 and the discussion with your fellow jurors?

25 A. Yes, sir.

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

2 A. I would.

3 Q. And you would respect theirs?

4 A. Yes, I would.

5 Q. Thank you, sir.

6 THE COURT: Anything else, Mr.

7 Durant?

8 BRUCE DURANT: No, sir, Your

9 Honor.

10 THE COURT: Thank you. If you
11 would, we need for you to step out and we will
12 be with our momentarily.

13 (JUROR NUMBER 69 EXITS COURTROOM)

14 THE COURT: I understand the
15 State's frustration but, frankly, this is the
16 flip side of that side of somebody who says,
17 'I believe in the death penalty' but this
18 gentleman is not -- he is an electrical
19 engineer, a college graduate, he was very
20 articulate, I thought, in stating -- in
21 saying, 'Yep, they exist.' I believe that is
22 precisely what the law says, so -- I find him
23 to be qualified. You may object and I'll be
24 happy to hear from you.

25 BRUCE DURANT: I am not

1 objecting. My only objection is that he is
2 one of those that obviously could only impose
3 the death penalty in a very limited
4 circumstance and I don't think that's in
5 compliance with the law.

6 THE COURT: I appreciate that. He
7 said, "if I believe if evil exists." I think
8 that's what malice is all about. I think
9 that's what is there. I think that there are
10 circumstances in his mind that -- if we want
11 to change all that and allow you to say,
12 'Well, tell me about it.' I agree that it
13 would be great, it would be wonderful
14 information that we all would like to know.
15 'Tell me what those circumstances are.'
16 Because obviously then I could make a very
17 intelligent, hopefully more intelligent
18 decision because I could say, 'Well, that is
19 not this circumstance. You're excused.'

20 The same ought to be true over here. You
21 ought to be able to ask, 'Well, what about
22 this mitigating circumstance, is this going to
23 influence you?' We know that they can't do
24 that. So if they can't do that, then you
25 shouldn't be able to do that. That's just not

1 fair, that's what we call an even playing
2 surface.

3 So I appreciate it but that's
4 precisely why I think they call those things
5 peremptory challenges. Thank you very much.

6 BRUCE DURANT: Thank you, Your
7 Honor.

8 THE COURT: I assume you think that
9 he is qualified?

10 MR. BLOOM: Yes, sir, Your Honor.

11 THE COURT: I do, I find that he is
12 qualified. Please ask him to step in.

13 (JUROR NUMBER 69 ENTERS COURTROOM)

14 THE COURT: Mr. Deden, thank you
15 very much. I appreciate your patience with
16 us. I've found that you're qualified to be a
17 part of the panel from which we will select
18 our jury.

19 That process will take place in the
20 morning at 9:30, so we need you to be here.
21 Come directly to this courthouse (sic) and,
22 depending on what time you arrive you may be
23 able to come directly to the courtroom but
24 what probably we are going to need is for the
25 jurors -- because some jurors may be coming

1 early, so they may take you to another
2 courtroom but you will all be brought in at
3 9:30 and then we will select the jury at that
4 time.

5 Until then and until you have been
6 dismissed from this case, please remember that
7 you still are not at liberty to discuss this
8 case with anyone or permit anyone to talk with
9 you about it. Also, please continue not to
10 watch any news programs about it or read any
11 news accounts.

12 Come prepared tomorrow to stay if
13 you're selected on the jury because we will
14 start taking testimony tomorrow. Don't know
15 if you're going to be on the jury or not but
16 just plan -- just come expecting that to
17 happen.

18 JUROR NUMBER 69: Okay. Before
19 9:30.

20 THE COURT: If you will come, if
21 you will be here by 9:30, we will be on the
22 bench probably about 9:30 and that's when we
23 will start the process.

24 JUROR NUMBER 69: Yes, Your Honor.

25 THE COURT: Thank you so much.

1 Have a good evening.

2 (JUROR NUMBER 69 EXITS COURTROOM)

3 THE COURT: Juror Number 22, Ms.

4 Blank..

5 (JUROR NUMBER 22 ENTERS COURTROOM)

6 THE COURT: Good afternoon, Ms.

7 Blank. How are you?

8 JUROR NUMBER 22: Good afternoon.

9 I'm doing well.

10 THE COURT: Good. Thank you for
11 your patience. We are continuing the process
12 that we started on Friday. We are going to
13 have some questions that we need to ask of
14 you. None of these questions are designed to
15 force you to change any beliefs that you have.
16 You are entitled to those beliefs. You need
17 not have to defend those beliefs. Okay?

18 JUROR NUMBER 22: (Affirmative nod).

19 THE COURT: We are here to simply
20 ask you some questions to assist us in making
21 a determination whether you can be a fair and
22 impartial juror. Okay?

23 JUROR NUMBER 22: Yes, sir.

24 THE COURT: And there are no
25 correct answers to any of these questions.

1 JUROR NUMBER 22: All right.

2 THE COURT: So all we ask is that
3 you be truthful and candid in responding to
4 them and we are confident that you will do
5 that.

6 JUROR NUMBER 22: I will.

7 THE COURT: I would remind you in
8 that regard that you are still under oath in
9 this matter. Okay?

10 JUROR NUMBER 22: All right.

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

14 VOIR DIRE EXAMINATION

15 BY THE COURT:

16 Q. Please state your full name for the
17 record.

18 A. My full name is Pamela Shumacher Blank.

19 Q. Ms. Blank, since we were together on
20 Friday, have you talked with anyone, permitted
21 anyone to talk with you -- talked to anyone,
22 permitted anyone to talk to you about this
23 case or talk about it in your presence?

24 A. No, I have not.

25 Q. Have you watched any news accounts or

1 read any newspaper articles about it?

2 A. No, I have not.

3 Q. On Friday, I mentioned a number of names
4 and asked you whether you were related to any
5 of those persons.

6 A. (Affirmative nod).

7 Q. I failed to mention two names that I need
8 to ask you about. Are you related by blood or
9 marriage, have any business dealings with or
10 socially or casually acquainted with either a
11 Jeff Osborne or Matt Casey?

12 A. No, I do not.

13 Q. You were given a sheet when you came in
14 that sets forth three types of jurors.

15 A. Right.

16 Q. Have you had a opportunity to review that
17 sheet?

18 A. I have.

19 Q. Which type most accurately describes you?

20 A. Number two.

21 Q. What does number two say to you? Why are
22 you a number two?

23 A. I am just -- I am a Christian and feel
24 like I could not give the death sentence. I
25 could find someone guilty, I could put them in

1 jail for life but I could not enforce the
2 death penalty.

3 Q. In fact, you said that to me ---

4 A. I did, (affirmative nod).

5 Q. --- on Friday?

6 A. (Affirmative nod).

7 Q. You've also written that in your form as
8 well where you said, "I am against the death
9 penalty and would never be able to convict
10 someone of that, that somebody be sentenced to
11 death."

12 A. That's correct.

13 Q. I think you even then went on to the next
14 question and wrote, "For religious reasons, I
15 could never sentence someone to death."

16 A. That's correct.

17 Q. So am I to understand you, in furtherance
18 of that, there is absolutely no circumstance
19 that you can think of where a person who has
20 been convicted of murder -- in which you could
21 vote to impose a death sentence?

22 A. No, I could not.

23 Q. Never?

24 A. Never.

25 THE COURT: Okay. Any questions

1 from the State?

2 MR. BLOOM: I think I have two,
3 Your Honor.

4 VOIR DIRE EXAMINATION

5 BY MR. BLOOM:

6 Q. Ma'am, there's no way that you could set
7 those strong beliefs aside and listen to all
8 the evidence in a particular case, listen to
9 His Honor's charge, and find in some
10 situations that the death penalty might be
11 appropriate?

12 A. I could not. No.

13 Q. With all due respect, no one is here to
14 question or to challenge your views, I think
15 you've indicated that is a belief that you
16 have that is a deeply-held part of your
17 religion and faith?

18 A. I am a conservative Christian and that's
19 how I believe.

20 Q. Thank you very much.

21 A. Certainly.

22 Q. I appreciate that.

23 MR. BLOOM: Thank you.

24 THE COURT: Any questions, Mr.
25 Durant?

Case No. 06-GS-10-2981 et al
Jury Trial of April 20 - May 7, 2009
Before The Honorable R. Markley Dennis, Jr.

1 BRUCE DURANT: No, sir, Your
2 Honor.

3 THE COURT: Thank you very much. I
4 am going to excuse you, Ms. Blank, from
5 further participation in this dispute. Thank
6 you for your patience and your participation.
7 You are also excused from further jury duty.

8 JUROR NUMBER 22: Thank you.

9 THE COURT: Have a great day.

10 (JUROR NUMBER 22 EXITS COURTROOM)

11 THE COURT: Let's bring in Ms.
12 Rhyne, please. She is Number 252.

13 MR. BLOOM: Judge, as I did with
14 the other jurors, I would note our objection
15 under the First, Eighth and Fourteenth
16 Amendments where a juror ---

17 THE COURT: It's noted. This is a
18 juror who came up on Friday saying that she
19 could never, ever, ever do this. I believe
20 that she could not follow the instructions of
21 the court. Unlike Mr. Deden, who said that
22 she could. She could think of no
23 circumstance, whatsoever, in which she could
24 impose a death sentence. For that reason,
25 I've excused her because she could not follow

1 the instructions of the court nor could she
2 comply with the oath as a juror. Thank you.
3 Your objection is noted for the record.

4 I think we're going to have another
5 one right here, too.

6 (JUROR NUMBER 252 ENTERS COURTROOM)

7 THE COURT: Good afternoon, Ms.
8 Rhyne, how are you?

9 JUROR NUMBER 252: Good, thank
10 you.

11 THE COURT: Thank you for your
12 patience. We won't keep you much longer.
13 We have some questions that we need to ask of
14 you and -- I have some, the attorneys may have
15 some. There are no correct answers to any of
16 these questions nor are these questions
17 intended to challenge you of any beliefs that
18 you may have. We are not -- you don't have to
19 feel like you have to defend any beliefs that
20 you have, you're entitled to that. All we ask
21 is that you be candid and truthful in
22 responding to the questions and I am confident
23 that you will do that. Okay?

24 JUROR NUMBER 252: Yes, sir.

25 THE COURT: I would remind you that

1 you're still under oath in this matter.

2 JUROR NUMBER 252: Yes, sir.

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

6 VOIR DIRE EXAMINATION

7 BY THE COURT:

8 Q. I have a note attached with your form
9 that said that there was some surgery with
10 your daughter.

11 A. Yes, sir.

12 Q. Is that still involved?

13 A. No, sir.

14 Q. That is not?

15 A. No, sir.

16 Q. So that is no longer an issue?

17 A. No.

18 Q. Thank you. I just wanted to address that
19 right off the bat.

20 A. Thank you.

21 Q. Since we were together on Friday, have
22 you talked with anyone or permitted anyone to
23 talk with you or talk about this case in any
24 way?

25 A. No, sir.

1 Q. Have you watched any news programs about
2 it or read any newspaper accounts?

3 A. No, sir.

4 Q. Friday, we talked about a number of
5 persons and I failed to mention two names
6 that I need to ask you about. Are you related
7 by blood or marriage, have any business
8 dealings with or are you socially or casually
9 acquainted with Jeff Osborne or Matt Casey?

10 A. No, sir.

11 Q. When you arrived today they gave you a
12 sheet of paper and that sheet of paper had
13 three types of jurors listed on it?

14 A. (Affirmative nod).

15 Q. Have you had the opportunity to review
16 those types of jurors?

17 A. Yes, sir.

18 Q. And you've reflected on which one most
19 accurately describes you?

20 A. Yes, sir.

21 Q. Which one?

22 A. Number two.

23 Q. Okay. Tell me why and tell me what you
24 see number two to be.

25 A. Number two is -- I don't believe in the

1 death penalty. I don't believe that I have
2 that right, to sentence someone to death.

3 Q. All right. So you don't believe in its
4 use at all?

5 A. No, sir.

6 Q. For any circumstance?

7 A. No, sir.

8 Q. So if you were on a jury and the court
9 instructed you to consider certain
10 circumstances if you found certain facts to be
11 in existence, it doesn't matter whether you
12 found them in existence or not, you would
13 never consider the death penalty?

14 A. No, sir.

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

18 BRUCE DURANT: I have no
19 questions, Your Honor.

20 THE COURT: Mr. Bloom?

21 MR. BLOOM: Yes, just a few.

22 VOIR DIRE EXAMINATION

23 BY MR. BLOOM:

24 Q. Despite your strong belief, is there any
25 situation where you think that you could set

1 your death penalty beliefs aside and, if the
2 circumstances warranted it, impose the death
3 penalty?

4 A. I don't think so.

5 Q. Okay. No one is here to challenge you or
6 to question your belief.

7 A. Okay.

8 Q. Is that belief that you have based on
9 your religious faith?

10 A. Partly; yes, sir.

11 MR. BLOOM: Thank you, ma'am.

12 THE COURT: So there are other
13 reasons, too?

14 JUROR NUMBER 252: Yes, sir.

15 THE COURT: Thank you. Anything
16 else?

17 MR. BLOOM: No, sir.

18 THE COURT: Thank you very much,
19 Ms. Rhyne. I am going to excuse you from any
20 further participation in this dispute. Thank
21 you very much for your willingness to
22 participate and your involvement thus far.
23 Good luck to you. You've now completed your
24 service.

25 JUROR NUMBER 252: Thank you.

1 (JUROR NUMBER 252 EXITS COURTROOM)

2 MR. BLOOM: Judge, with this juror
3 again we would just note, as we have with
4 others, our objection under the First, Eighth
5 and Fourteenth Amendments.

6 THE COURT: All right. As it
7 pertains to those reasons which she said are
8 related to the religious reasons, I understand
9 that and note it.

10 MR. BLOOM: Yes, sir.

11 THE COURT: But, again, this juror
12 has indicated that there were absolutely no
13 circumstances whatsoever because she just
14 didn't believe in that form of punishment,
15 that she could consider it; therefore, she
16 could not carry out or follow the court's
17 instruction nor honor the oath, in my opinion.
18 It's noted. Thank you so much.
19 Let's take about five minutes. How about
20 that? You'all can count. According to my
21 count we have thirty-seven.

22 MR. BLOOM: Thirty-eight.

23 THE COURT: Thirty-eight. Excuse
24 me.

25 (BRIEF RECESS)

1 (DEFENDANT PRESENT)

2 THE COURT: Let the record reflect
3 that Mr. Dickerson is present. Is the State
4 ready to resume?

5 SOLICITOR WILSON: Yes, sir.

6 THE COURT: Defense ready?

7 MR. BLOOM: Yes, sir.

8 THE COURT: Moving right along,
9 let's bring in our former anchor person,
10 Number 90, Ms. Ferguson.

11 (JUROR NUMBER 90 ENTERS COURTROOM)

12 THE COURT: Ms. Ferguson, good
13 afternoon.

14 JUROR NUMBER 90: Good afternoon,
15 Your Honor.

16 THE COURT: If you will sit and
17 pull yourself up so that you can speak into
18 that mic comfortably. We apologize for the
19 delay but we are almost there.

20 JUROR NUMBER 90: Not at all.

21 THE COURT: We are going to
22 continue the process that we started on
23 Friday. There are some questions that I have
24 of you and then the attorneys may have some
25 questions, as well.

1 We are not here to challenge any of
2 your beliefs nor are we here to say that you
3 should change your mind about how you think or
4 believe. You are entitled to that. Please
5 don't think that you have to justify anything.
6 I don't think any of those types of questions
7 would be asked but if at any point you do feel
8 that, please know that's not the case. You
9 are entitled to those beliefs.

10 Nor are we here to invade any
11 privacy. We're here simply to ask you some
12 questions, which really are designed to assist
13 you and to assist us in determining whether or
14 not you can be a fair and impartial juror.
15 Okay?

16 JUROR NUMBER 90: I understand.

17 THE COURT: There are no correct
18 answers to any of these questions. All that
19 we ask is that you respond truthfully and
20 candidly and that you fully answer the
21 question. Will you do that?

22 JUROR NUMBER 90: I will.

23 THE COURT: Ms. Ferguson, I remind
24 you that you are still under oath in this
25 matter. Okay?

1 JUROR NUMBER 90: (Affirmative nod).

2 ANDREA FERGUSON, being duly sworn to
3 tell the truth, the whole truth and nothing
4 but the truth, testified, as follows:

5 VOIR DIRE EXAMINATION

6 BY THE COURT:

7 Q. Since we were last together on Friday,
8 have you spoken with anyone, permitted anyone
9 to talk with you or permitted anyone to talk
10 to you about this case or talk about it in
11 your presence?

12 A. No, just that I was being considered as
13 a juror in a murder case. That's all.

14 Q. I understand. That was the extent of the
15 conversation?

16 A. It was.

17 Q. Have you watched any news accounts or
18 read any newspaper articles about it?

19 A. No. I did see a headline that my husband
20 was reading but I did not read it and we did
21 not discuss it.

22 Q. Very well. Nothing that you've heard or
23 seeing that headline would cause you -- would
24 give you any concern about your ability to
25 fairly and impartially decide this case based

1 solely on the evidence. That's what you would
2 hear in the courtroom.

3 A. I don't even remember what the headline
4 said, no.

5 Q. Very well. On Friday, I mentioned a
6 number of names of persons and asked if you
7 were related by blood or marriage to any of
8 those persons. I failed to mention two names
9 that I need to share with you. Are you
10 related by blood or marriage, have any
11 business dealings with or are you socially or
12 casually acquainted with either a Jeff Osborne
13 or Matt Casey?

14 A. No, sir.

15 Q. Okay. When you arrived today, they gave
16 you a sheet that sets forth three types of
17 jurors.

18 A. Yes, sir.

19 Q. Have you had a opportunity to review that
20 sheet?

21 A. Yes.

22 Q. And have you had the opportunity to
23 reflect on which of the three types of jurors
24 most accurately describes you?

25 A. Yes.

1 Q. Which one would that be?

2 A. Three.

3 Q. Tell me what you believe type three, what
4 type of juror that is and why that applies to
5 you.

6 A. I think any witnesses in a trial have to
7 be vetted in the manner that you discussed
8 earlier, common sense and reason and so on,
9 and extenuating circumstances have to be
10 thought about.

11 Q. All right, that would be you?

12 A. That would.

13 Q. Let's focus on that abstract case for
14 just a second and let me set the stage if I
15 may. At the point where those three types are
16 being considered, certain things have
17 happened.

18 Number one, the person accused of
19 committing the offense of murder has had the
20 first phase. There's been a trial, witnesses
21 have been heard, the jury -- and you are a
22 part of this jury -- has deliberated on the
23 charge of murder and, following the court's
24 instruction, has considered the evidence and
25 determined that the State had met its burden

1 of proof and established each element required
2 or it on the offense of murder and, therefore,
3 returned a verdict.

4 That verdict says this:

5 Number one, that the person that
6 has been accused is the person who committed
7 this offense.

8 Number two, that the offense
9 that the person has committed is murder, not
10 some other offense. That murder is the
11 intentional killing of another with malice
12 aforethought. It is not a mistake, it is not
13 an accident, it is not self-defense, none of
14 those things would apply, those have been
15 excluded by the verdict, by the verdict
16 itself.

17 It also is not the verdict of -- the
18 person is not guilty of a lesser-included
19 offense, known as manslaughter or involuntary
20 manslaughter. In some states, it is murder in
21 the second degree, third degree. We don't
22 have that in South Carolina.

23 The lesser-included offense would be
24 manslaughter, which would be the killing of a
25 person in the sudden heat of passion.

1 Generally there has been some sufficient
2 provocation and the person responded to that
3 provocation and killed someone.

4 The involuntary manslaughter would be the
5 other and that is when a person typically --
6 typically when a person with reckless
7 disregard -- they were reckless in their
8 action and, as a result, someone died. That
9 could be involuntary manslaughter.

10 None of those apply because you've
11 determined as a part of the jury that the
12 State had convinced you beyond a reasonable
13 doubt that this crime was murder. That is,
14 somebody who was motivated and had malice --
15 that there was a malicious killing and they
16 were motivated by evil, evil intent. They
17 wanted to kill this person, they sought him
18 out and killed that person. They've carried
19 it, had no justification for doing so.

20 Now you're at the point where you're
21 about to start the second phase where the jury
22 is going to ultimately determine what the
23 appropriate sentence is, whether it is going
24 to be life imprisonment without the
25 possibility of parole or a death sentence.

1 Okay?

2 A. (No verbal response).

3 Q. Having said that, at this point you
4 haven't heard any evidence yet in the second
5 phase. Do you have in your mind any
6 conclusion about what the most effective or
7 proper sentence would be between the two?

8 A. Between the two?

9 Q. Between life imprisonment without the
10 possibility of parole or the death sentence?

11 A. I'd have to hear the specifics.

12 Q. Okay. Well, it is important that that
13 position be maintained because what you're
14 saying indirectly is that at this point you
15 are very open, you have an open mind to what
16 the appropriate sentence would be?

17 A. Yes, sir.

18 Q. And you wouldn't change that position
19 until you had been instructed by the court, I
20 assume, to begin your deliberations and that
21 would be after you'd heard all the evidence
22 and the law; is that correct?

23 A. That's correct.

24 Q. That's critical because of a number of
25 reasons, first and foremost because that's

1 what the law says and that your oath says that
2 you would do.

3 But, in addition, I would tell you that
4 it's not the norm when a jury is involved with
5 the sentencing in a murder trial. Typically
6 what happens in that abstract case is that the
7 court would receive your verdict and then say
8 'thank you very much, you're excused' and then
9 proceed to impose a sentence. The judge would
10 impose that sentence.

11 The most -- the maximum sentence that a
12 judge could impose for the crime of murder
13 would be life imprisonment without the
14 possibility of parole. The judge would not be
15 bound to that sentence but that would be the
16 most that the judge could impose. He could
17 impose less than that -- he or she.

18 But our State has said that in some
19 situations, in certain circumstances, the
20 State has the right to proceed with seeking a
21 death sentence but they have to do certain
22 things. First, we have to have that second
23 phase where we consider evidence concerning
24 the appropriate sentence. That's evidence
25 that would be in addition to the evidence that

1 is heard. Obviously the crime and the nature
2 of the crime, you would always be considering
3 in fashioning a sentence but you'd hear
4 matters that would not have been proper and
5 would not have been received in the first
6 phase.

7 The law goes on to say that in addition
8 to those -- to the general evidence that may
9 be important in fashioning a sentence, for a
10 jury to determine what the appropriate, what
11 an appropriate sentence would be, you have to
12 prove beyond a reasonable doubt first the
13 existence of some aggravating circumstance as
14 defined by our law. Without that, then this
15 crime is nothing more than the murder -- a
16 normal murder and the only sentence that a
17 jury could impose is life without parole in
18 that situation.

19 In other words, the instruction
20 would say that if at the conclusion of your
21 deliberations you don't find the existence of
22 an aggravating circumstance from the evidence
23 beyond a reasonable doubt, then you must
24 return a sentence of life without parole
25 because you can't even consider a death

1 sentence. Okay?

2 A. Okay.

3 Q. Any problem following that instruction in
4 that situation?

5 A. No, sir.

6 Q. There are a number of aggravating
7 circumstances that are provided by statute.
8 Just for purposes of our discussion, two of
9 them could be -- one is the killing of a
10 police officer and another is the killing of a
11 child. If one of those was present in your
12 abstract case and you were to conclude beyond
13 a reasonable doubt that that had been
14 established, my instruction would say that
15 once you'd made the determination beyond a
16 reasonable doubt of the existence of that,
17 then the jury may consider, in addition to the
18 life imprisonment without the possibility of
19 parole, a death sentence.

20 Now, that word "consider" means just
21 that. In other words, you would have to
22 decide between the two. The court would never
23 tell you that you have to pick one over the
24 either: either death over life or life over
25 death. It would be up to the jury to

1 determine, by considering all the evidence,
2 which one they believe to be the most
3 appropriate.

4 My understanding is that, as a type three
5 juror, at that time you would have heard all
6 the evidence, at that time you would have
7 received the law and you would be able to
8 apply your common sense, your sense of logic
9 and reasoning fairly and impartially and
10 decide between death or life imprisonment
11 without the possibility of parole; is that
12 correct?

13 A. Yes.

14 Q. And I am asking you to tell me the
15 circumstances, I'm just asking you this: In
16 your mind, there are circumstances that if
17 those exist then you would -- again, one of
18 which is that you've already determined an
19 aggravating circumstance, but understand that
20 you don't have to bring back -- as I told you,
21 I would never instruct you that you must
22 return it. You'd have to find an aggravating
23 circumstance to be able to consider it but in
24 considering those aggravating circumstances
25 and all other circumstances, while you have

1 the option to impose a life imprisonment, you
2 would choose to impose a death sentence?

3 A. I am not sure that I would.

4 Q. Well, in other words, when you're given
5 -- you have to determine there is an
6 aggravating circumstance to be given the
7 option.

8 A. Are you asking if I am capable of doing
9 that?

10 Q. Yes.

11 A. (Affirmative nod), I am.

12 Q. If you're satisfied that those
13 circumstances have been -- are present?

14 A. Yes.

15 Q. And you would do that if that be the
16 case?

17 A. If that be the case.

18 Q. You understand that in order to effect
19 that sentence that not only would you have to
20 vote for it but there would be a form that you
21 have to sign, that there would be a death
22 sentence that you would have to sign stating
23 that was your verdict.

24 A. It's not an easy thing for anyone to do.

25 Q. No, it is not. But you could sign that

1 form, as well?

2 A. (Sighs), with other circumstances and
3 such. Yes.

4 Q. Yes?

5 A. Yes.

6 Q. In other words, you would have concluded
7 that that is the just and proper sentence for
8 this situation?

9 A. I am afraid so.

10 Q. Well, don't -- I thank you for the way --
11 and I understand what you mean because there's
12 -- I assume you, as someone mentioned,
13 imposing a sentence is not the most pleasant
14 thing to have to do. I understand that.
15 Neither is it pleasant for me but it is a part
16 of the responsibility or one of the tasks that
17 we have to do when we accept the role of being
18 a judge in this case. That would be yours,
19 that you would carry out that function.

20 A. I could.

21 Q. Likewise, Ms. Ferguson, if in considering
22 both, while you would have had the opportunity
23 because of the existence of the aggravating
24 circumstance, as you know, you would also have
25 the right to consider and impose a life

1 without parole sentence.

2 A. Yes.

3 Q. You could, given the circumstances, if
4 you felt that it was warranted, just and it
5 was a proper sentence, decide not to impose
6 death but to instead impose life imprisonment
7 without the possibility of parole?

8 A. I couldn't tell you until I've heard all
9 the evidence.

10 Q. That's fine. That's precisely what a
11 type three juror says that they will do.
12 Some of the circumstances that you will hear
13 in addition to aggravating circumstances,
14 which obviously have to be there in order to
15 be able to consider the death sentence, would
16 be other factors which may be important in
17 fashioning a sentence and in deciding between
18 life or death; also something that we call
19 mitigating circumstances. Some mitigating
20 circumstances are statutorily provided, some
21 are nonstatutory -- meaning just common sense
22 mitigating circumstances.

23 Those are facts and circumstances that
24 would tend to lessen the effect of a murder,
25 such as -- and there are a number, but such as

1 the person may have had a history of
2 addiction. There may be substance abuse in
3 their life. They may have had some problems
4 in childhood such as child abuse. They may
5 have some mental issues which would justify or
6 excuse the acts but be more as to some
7 explanation why the person would have done
8 what they've done. Again, it wouldn't change
9 the fact that it was murder. It would just be
10 something that would mitigate the ---

11 A. I understand.

12 Q. If those are present, the instruction
13 would also say that if there are mitigating
14 circumstances, you would be required as a
15 juror and as a judge to give meaningful
16 consideration to those circumstances, as well
17 as the aggravating circumstances in all other
18 aspects. You could do that?

19 A. I could.

20 Q. Those would be important to you before
21 you could determine a sentence?

22 A. Right.

23 Q. Now, in this process -- the person in
24 that abstract, I would have instructed you if
25 I had been the judge, in both phases, that

1 that individual had no responsibility to prove
2 or disprove anything at all. Persons accused
3 of criminal offenses have no burden of proof.
4 They don't have to prove their innocence, they
5 don't have to do anything. They don't even
6 have to present evidence. Certainly they
7 don't even have to testify. If they chose not
8 to, then your instruction would be that you
9 can't use that against them in any way.

10 That's either in the first or the second
11 phase. Would you have any problem following
12 that instruction?

13 A. No, I would not.

14 Q. Therefore, in the second phase, if there
15 aren't any mitigating circumstances for you to
16 consider, you wouldn't hold that against that
17 person, you would just decide it based on
18 whatever that you have. Is that correct?

19 A. That's correct.

20 Q. But you wouldn't penalize the defendant
21 because there weren't any mitigating
22 circumstances?

23 A. No.

24 Q. The final aspect of that charge would
25 say, we have talked about aggravating

1 circumstances, mitigating circumstances but
2 there would also be a portion of the charge
3 that says as a member of the jury deciding the
4 punishment, whatever the appropriate
5 punishment, you have the right to impose life
6 without parole for no reason, at all, if you
7 choose to. That's just your right.

8 Now, again, all of that would be
9 motivated by a view of all the other and your
10 ultimate conclusion of what is fair and just
11 under the facts and circumstances of this
12 case, but that would be a right that you have.
13 Would you be able to consider that, as well,
14 in fashioning the sentence?

15 A. Yes, I would.

16 Q. And it is my understanding that you would
17 consider all of the evidence fair and
18 impartial, make a decision of what you believe
19 to be the truth, take that law that we have
20 discussed and then you would, could, could
21 write a sentence and it might be a death
22 sentence or it might be life imprisonment
23 without the possibility of parole, but it
24 would depend on the facts and circumstances?

25 A. It would.

1 Q. Now, let's leave that abstract case for
2 just a moment. On Friday I mentioned to you
3 that Mr. Dickerson has been accused of several
4 criminal offenses. I further stated that, as
5 anyone accused of a criminal offense in this
6 state or in this country, is presumed innocent
7 until the State proves his guilt beyond a
8 reasonable doubt. You didn't have any problem
9 with that principle of law, did you?

10 A. No.

11 Q. That is a very active presumption. By
12 that, I mean simply this. When we see persons
13 who have been accused of crimes, that law
14 requires us to actively presume -- that means
15 to see them as innocent of those offenses.
16 Today as you sit here, is Mr. Dickerson in
17 your mind, as far as you are concerned,
18 innocent of these charges?

19 A. Yes.

20 Q. And would you be able to maintain that
21 position until you were instructed, if you
22 were on the jury, to consider the evidence, to
23 decide what you believe to be the truth and
24 then, deciding that, taking the law and you
25 have become firmly convinced as to each

1 element of a particular crime with which he
2 stands accused and then at that time -- then,
3 of course, under the instruction you would be
4 expected to find him guilty and that
5 presumption would vanish because the State
6 would have met its burden of proof. But until
7 that occurs, you would honor that presumption.
8 Is that correct?

9 A. Yes, sir, I would.

10 Q. All right. Based on what you've heard
11 thus far about this case, is there anything
12 that would give you any concern about your
13 ability to fairly and impartially consider the
14 evidence, decide the true facts and then take
15 the law as I gave it to you and apply it
16 fairly and impartially to those facts?

17 A. I could.

18 Q. The last question that I have is this, we
19 have two judges working together and I don't
20 know that this will happen -- it could, -- but
21 during the charge on the law there may be some
22 law that you hear that is not consistent with
23 your understanding of what you thought the law
24 was or what you think that it ought to be or
25 it may be inconsistent with what you believe

1 should be the case, just life itself, but part
2 of the oath that you've took is that you,
3 notwithstanding those feelings, would set
4 those feelings aside and apply that law as
5 stated, fairly and impartially?

6 A. I would.

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

9 VOIR DIRE EXAMINATION

10 BY BRUCE DURANT:

11 Q. Good afternoon, Ms. Ferguson.

12 A. Hi.

13 Q. My name is Bruce Durant, I'm the Deputy
14 Solicitor here. This is Scarlet Wilson, she
15 is the Solicitor. This is Rutledge Durant,
16 he's another Assistant in our office. We will
17 be prosecuting this case on behalf of the
18 State of South Carolina.

19 Based on your responses to the
20 questionnaire and your responses to Judge
21 Dennis, I don't believe that I have any
22 questions of you at this time.

23 Thank you.

24 THE COURT: Mr. Bloom?

25 VOIR DIRE EXAMINATION

1 BY MR. BLOOM:

2 Q. Ms. Ferguson, my name is Jeff Bloom and
3 along with Andrew Carroll, who is out of the
4 courtroom right now, we represent William
5 Dickerson. I just have a few questions.

6 Can you tell us just generally what your
7 opinion is about the death penalty?

8 A. I think that it is -- I support the death
9 penalty and that it is -- it depends on all
10 the circumstances and has a lot to do with
11 that number three, mitigation, mitigating
12 circumstances.

13 Q. All right, ma'am. And you understood
14 Judge Dennis' instructions that if you were a
15 juror in such a case and after you'd heard all
16 the evidence and instruction, that it is your
17 individual choice. That there is nothing in
18 the law that requires that you choose the
19 ultimate punishment but that you could chose
20 life without parole. Do you remember that
21 part of his instructions?

22 A. Yes.

23 Q. In that vein, the law calls that an
24 individualized, reasoned moral judgment. Can
25 you make that judgment?

1 A. I can.

2 Q. After you've heard all the evidence, all
3 the circumstances, Judge Dennis' instructions,
4 discussed it with your fellow jurors and
5 debates it, everybody had went around, you'd
6 listened to them, they'd listened to you, if
7 eleven jurors were voting one way but you were
8 voting the other way and it was your own
9 individualized, reasoned moral judgment based
10 on everything you had heard, decided, debated
11 and listened to, could you stand by that?

12 A. I could.

13 Q. Okay. You wouldn't just give them up and
14 go along to get along?

15 A. No.

16 Q. You'd didn't strike me as that but you
17 know that I have to ask.

18 A. (Affirmative nod).

19 Q. Likewise, you would then ask other jurors
20 to respect your vote?

21 A. Yes.

22 Q. You would respect theirs?

23 A. Yes.

24 MR. BLOOM: Thank you, ma'am.

25 THE COURT: Anything else, Mr.

1 Durant?

2 BRUCE DURANT: No, sir, Your
3 Honor.

4 THE COURT: Thank you, Ms.
5 Ferguson. I would ask, if you could, for you
6 to step out just for a moment. We will be
7 with your momentarily.

8 (JUROR NUMBER 90 EXITS COURTROOM)

9 THE COURT: I find that Ms.
10 Ferguson is qualified. Any objections from
11 the State?

12 BRUCE DURANT: No, sir.

13 THE COURT: From the defense?

14 MR. BLOOM: No, sir.

15 THE COURT: Thank you very much.
16 Ask her to step in, please.

17 (JUROR NUMBER 90 ENTERS COURTROOM)

18 THE COURT: Ms. Ferguson, thank you
19 very much for your patience. You've been
20 found to be qualified to be a member of the
21 panel from which we will select our jury.

22 That will take place tomorrow
23 morning by 9:30. We need for you to be here
24 by 9:30 and we will start that process at that
25 time. It won't take that long, but I need for

1 you to plan to be here because if you're
2 selected for the jury we will then start the
3 trial of the case. That means, you wouldn't
4 be able to leave the courtroom for a while.
5 Plan on that.

6 Until then and until you have been
7 dismissed from this case, please remember that
8 you still are not at liberty to discuss this
9 case with anyone or permit anyone to talk with
10 you about it. Also, please continue not to
11 watch any news programs about it or read any
12 news accounts. Have a great day and we'll see
13 you in the morning.

14 Come directly to this courtroom.
15 Depending on what time you get here, the jury
16 may be redirected to another courtroom, just
17 because of all the people that will be milling
18 in and out of here, just to keep the jury
19 separate. We will bring you in at 9:30. You
20 may be able to come directly here, but someone
21 will be out there directing you. Okay?

22 JUROR NUMBER 90: Yes, sir.

23 THE COURT: You are telling them to
24 wear their JUROR button, I assume?

25 BAILIFF: (Affirmative nod).

1 THE COURT: Do that so that they
2 will know who you are. Thank you very much,
3 see you in the morning.

4 (JUROR NUMBER 90 EXITS COURTROOM)

5 THE COURT: Let's bring in Mr.
6 Smalls, Number 287.

7 (JUROR NUMBER 287 ENTERS COURTROOM)

8 THE COURT: Mr. Smalls, good
9 afternoon. How are you, sir?

10 JUROR NUMBER 287: Fine. Thank you,
11 Your Honor.

12 THE COURT: Sorry we have kept you
13 so long. Thank you so much. We won't keep
14 you too much longer but we need to continue
15 that process that we started on Friday. There
16 are some questions that I have to ask you and
17 the attorneys will have to ask you. As you
18 noticed on Friday, these questions don't have
19 any correct answers.

20 JUROR NUMBER 287: Right.

21 THE COURT: They are just simply
22 designed to help you and us to make a
23 determination as to whether you can be a fair
24 and impartial juror.

25 JUROR NUMBER 287: Okay.

1 THE COURT: All we ask is that you
2 be truthful and candid in your responses.
3 Will you do that, sir?

4 JUROR NUMBER 287: Yes, sir.

5 THE COURT: Please understand also
6 that we're not here to try to change your
7 mind about anything you believe or convince
8 you that you're wrong, so you don't have to
9 defend yourself. If you believe something
10 and you feel comfortable, you are entitled to
11 that belief. Okay?

12 JUROR NUMBER 287: Yes, sir.

13 THE COURT: Now, I would remind
14 you, sir, that you're still under oath in
15 this matter. Do you understand that?

16 JUROR NUMBER 287: Right.

17 ROBERT SMALLS, being duly sworn to
18 tell the truth, the whole truth and nothing
19 but the truth, testified, as follows:

20 VOIR DIRE EXAMINATION

21 BY THE COURT:

22 Q. Since we were together on Friday --
23 well, let me ask you to do something first,
24 state your full name?

25 A. Robert Lee Smalls.

1 Q. Mr. Smalls, I don't know how I missed it
2 but I noticed in looking at your form when
3 preparing for this that you've reached that
4 wonderful station in life -- you're sixty-
5 nine?

6 A. Yes, sir.

7 Q. And you heard me say that you could be
8 excused if you wanted to be?

9 A. Right.

10 Q. But you choose to stay?

11 A. Right.

12 Q. Thank you so much, sir. It's an honor
13 to be here. Thank you for that sort of
14 commitment. I appreciate that, sir. I mean
15 that sincerely.

16 Since we were together on Friday, have
17 you talked with anyone, permitted anyone to
18 talk with you about this case or talk about
19 it in your presence?

20 A. No.

21 Q. Have you watched any news accounts or
22 read any newspaper articles about it?

23 A. No, sir.

24 Q. Remember on Friday I mentioned a number
25 of names?

1 A. Yes, sir.

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

7 A. No, sir, I don't know them.

8 Q. You were given a sheet when you came in
9 today.

10 A. Right.

11 Q. And that sheet of paper sets forth three
12 types of jurors, have you had a opportunity
13 to review that sheet, sir?

14 A. Yes.

15 Q. Have you had a chance to reflect on the
16 three types?

17 A. Yes, sir.

18 Q. Which type most accurately describes
19 you?

20 A. I think number -- number two.

21 Q. Tell me about number two, why that
22 describes you. Why do you think that
23 describes you?

24 A. Well, I think number two -- being that I
25 was in the military, seeing so many bad

1 things, I just don't think you could kill a
2 person because he committed a crime. Now, I
3 could go with life without parole but the
4 death penalty, (negative gesture).

5 Q. You just couldn't do that?

6 A. No, sir.

7 Q. As I understand, you're telling me that
8 is something that you couldn't do in any
9 circumstance, anybody convicted of murder,
10 you could never impose a death sentence for
11 them?

12 A. That's a hard question right there.

13 Q. Well, I understand it.

14 A. I -- (pause).

15 Q. Let me explain it a little bit more.

16 A. Okay.

17 Q. Because I told you when I started that I
18 wouldn't ask you to defend any belief, that
19 you're entitled to them. I am not asking you
20 to change your mind. I am not asking you to
21 put that -- to believe something else.

22 I am simply asking you would your belief,
23 would you be able to put that belief aside if
24 you were on a jury and instructed to consider
25 a case in which you would be entitled to

1 consider a death penalty and impose a death
2 sentence if you were convinced that was the
3 appropriate sentence, notwithstanding your
4 belief that you don't believe that somebody
5 should have to be put to death?

6 A. I don't think so.

7 Q. Under any circumstance?

8 A. No, sir.

9 THE COURT: Any questions?

10 MR. BLOOM: Yes, sir.

11 VOIR DIRE EXAMINATION

12 BY MR. BLOOM:

13 Q. Mr. Smalls, do you hold that as a part
14 of your religious belief, in part, that
15 belief?

16 A. Some of it.

17 Q. Thank you, sir.

18 THE COURT: Any other questions?

19 BRUCE DURANT: No questions,

20 Your Honor.

21 THE COURT: As I understand it,
22 part of it may be religious but part of it
23 has to do with what you had to deal with in
24 the military?

25 JUROR NUMBER 287: Yes, sir.

1 THE COURT: Thank you so much, Mr.
2 Smalls. I am going to excuse you from any
3 further participation in this dispute. I
4 thank you for your commitment to your
5 community, being a part of it, it has been an
6 honor to serve with you, sir. You are now
7 excused from further service. Good luck to
8 you.

9 JUROR NUMBER 287: Thank you, Your
10 Honor.

11 (JUROR NUMBER 287 EXITS COURTROOM)

12 THE COURT: Yes, sir, Mr. Bloom?

13 MR. BLOOM: Your Honor, I would
14 just note our objection, as we did with the
15 other jurors, under the First, Eighth and
16 Fourteenth Amendments.

17 THE COURT: Thank you. For the
18 reasons stated in each of those instances, I
19 -- I appreciate Mr. Smalls, I believe Mr.
20 Smalls is an extremely honorable man who
21 would -- having been in the military, but I
22 believe that he first reacted but that when
23 he thought about it, 'there's no circumstance
24 where I could ever do that.' For that
25 reason, he could not carry out the

1 instruction(s) of the court or function as a
2 juror and, therefore, I disqualified him. I
3 assume the State has no objection to his
4 disqualification?

5 BRUCE DURANT: No, Your Honor.

6 THE COURT: Thank you. Okay.
7 That concludes Panel Number Eleven. Let's go
8 to Panel Number Twelve. Bring in Mr.
9 Tribuna.

10 (JUROR NUMBER 317 ENTERS COURTROOM)

11 THE COURT: If you will sit and
12 pull yourself up so that you can speak into
13 that mic comfortably.

14 I appreciate your patience. We are
15 going to continue the process that we started
16 on Friday. There are some questions that I
17 am going to have for you and that the
18 attorneys may have for you. As you noticed
19 on Friday with those questions, there are no
20 correct answers to any of these questions.

21
22 All of them are designed to assist
23 you and us in determining whether you'd be a
24 fair and impartial juror in this case. They
25 are not here to challenge any belief or

1 philosophies that you have. You are entitled
2 to those, so don't think that you have to
3 defend them for any reason.

4 We just ask that you be truthful and
5 candid in responding to the questions and
6 fully answer the questions. Will you do
7 that, sir?

8 JUROR NUMBER 317: Yes, sir.

9 THE COURT: I would remind you in
10 that regard that you are still under oath in
11 this matter. Okay?

12 JUROR NUMBER 317: Okay.

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

16 VOIR DIRE EXAMINATION

17 BY THE COURT:

18 Q. Please state your name.

19 A. Daniel Tribuna.

20 Q. Mr. Tribuna, since we were together on
21 Friday have you talked with anyone, permitted
22 anyone to talk with you about this case or
23 talk about it in your presence?

24 A. No.

25 Q. Have you watched any news accounts or

1 read any newspaper articles about it?

2 A. I saw the headline on the paper but I
3 didn't read it.

4 Q. What you saw, would that influence you
5 in any way in this case?

6 A. (Negative gesture).

7 Q. Sir?

8 A. No, sir.

9 Q. Okay. On Friday, we talked about a
10 number of persons. I mentioned a number of
11 names but I failed to mention two names that
12 I need to ask you about. Are you related by
13 blood or marriage, have any business dealings
14 with or are you socially or casually
15 acquainted with either Jeff Osborne or Matt
16 Casey?

17 A. No.

18 Q. When you arrived, they gave you a sheet
19 of paper that sets forth three types of
20 jurors, have you had a opportunity to review
21 that sheet?

22 A. Yes.

23 Q. Which type most accurately describes
24 you?

25 A. Type two.

1 Q. Tell me what it is about the type two,
2 why that applies to you?

3 A. I just don't agree with taking a life.
4 I could agree with life without parole but
5 not the death penalty.

6 Q. All right. As I understand,
7 notwithstanding the fact that we respect your
8 belief, there is nothing, no circumstance(s)
9 that you can think of where you would be
10 asked to consider, where you'd set aside that
11 belief or could set aside that belief and
12 impose a death sentence?

13 A. No, Your Honor.

14 Q. Under any circumstance at all?

15 A. No, Your Honor.

16 THE COURT: Does the State have
17 any questions?

18 BRUCE DURANT: No, Your Honor.

19 MR. BLOOM: I have one.

20 THE COURT: Okay.

21 VOIR DIRE EXAMINATION

22 BY MR. BLOOM:

23 Q. Mr. Tribuna, is that based on your
24 religious belief, your religious background?

25 A. (Negative gesture), it's just how I

1 believe.

2 Q. All right. Thank you very much, sir.

3 THE COURT: Thank you so much, Mr.
4 Tribuna. As I mentioned to you, we wouldn't
5 challenge that. We respect your right to
6 believe that way. I am going to excuse you
7 from any further participation. Thank you
8 for your service to your community and to
9 your State. You are now free to leave. You
10 do not have to report any more.

11 JUROR NUMBER 317: Thank you, Your
12 Honor.

13 (JUROR NUMBER 317 EXITS COURTROOM)

14 THE COURT: Bring in Number 63.

15 THE COURT: This gentleman has --
16 do you'all have attached some notes about
17 heart problems that he has, in your notes?

18 SOLICITOR WILSON: Yes, sir.

19 THE COURT: Okay, I am going to
20 ask him about that. I don't want to be
21 guilty of that.

22 (JUROR NUMBER 63 ENTERS COURTROOM)

23 THE COURT: Good afternoon, Mr.
24 Cunliffe. How are you, sir?

25 JUROR NUMBER 63: I'm here.

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1 THE COURT: That's good. I
2 appreciate that. First thing that I want
3 to ask you, did we talk about your health
4 condition on Friday?

5 JUROR NUMBER 63: (Affirmative
6 nod).

7 THE COURT: I thought we did. Let
8 me ask you -- what I have as part of your
9 form, given what's happened and what is going
10 to be involved, does that process concern you
11 insofar as its effect on your condition?

12 JUROR NUMBER 63: The only thing
13 that concerns me is that within the last
14 approximately two months I have had, shall we
15 say, a different condition; more troubling
16 than the condition that I've had for my whole
17 life.

18 I am being treated at MUSC. I do
19 have an event scheduled May 1st, which is --
20 it's not like a regular stress test.
21 Apparently they will put something on my face
22 like an athletic -- to figure my lung
23 capacity.

24 I have always had lightheaded, I do
25 take a number of medications and over the

1 last six weeks we have been working with -- I
2 am now on the third try to take some of the
3 symptoms down.

4 My cardiologist, when I told him --
5 he is always encouraging me, so I guess I see
6 a glimmer of positiveness there. I am happy
7 that I made it here now, I feel fine, I'm --
8 you know -- in front of some people. I guess
9 the worst is over for me on that. Although,
10 I am taking some new medication.

11 THE COURT: Is your cardiologist,
12 is he aware ---

13 JUROR NUMBER 63: No.

14 THE COURT: --- that you're about
15 to undertake a death case?

16 JUROR NUMBER 63: No. No.

17 THE COURT: So when he -- when you
18 said that he was -- was he aware that you
19 were summoned for a jury ---

20 JUROR NUMBER 63: Sir, this may
21 help. I was in North Carolina, I was sent
22 the notice for jury duty and I -- I'm almost
23 certain that the document that I provided to
24 the court, at least that court excused me.

25 THE COURT: Yes.

1 JUROR NUMBER 63: I know it's
2 updated and I'm not sure what it says but I
3 know that it does say something about my ---

4 THE COURT: I understand. I am
5 going to ask you to step out just for a
6 moment, please, sir. We will be with you in
7 just a minute. I need to discuss matters out
8 of your presence, which is typical of what we
9 do.

10 JUROR NUMBER 63: Thank you.

11 (JUROR NUMBER 63 EXITS COURTROOM)

12 THE COURT: I am not going to put
13 this fellow through this, I don't think; not
14 with what is in the file. I don't think it
15 is worth it? Do you have any objection?

16 SOLICITOR WILSON: I don't have any
17 objection.

18 THE COURT: I don't think anybody
19 -- unless he's done it before, I don't think
20 he can fathom the stress of this process.

21 SOLICITOR WILSON: I think that's
22 fair.

23 THE COURT: Okay. Do you have any
24 objection, Mr. Bloom?

25 MR. BLOOM: None at all.

1 THE COURT: Ask Mr. Cunliffe to
2 come in.

3 (JUROR NUMBER 63 ENTERS COURTROOM)

4 THE COURT: I appreciate, sir,
5 your willingness to come this far with this.
6 I am going to do something here, I am going
7 to find that because of the nature of this,
8 the length of the trial involved, the stress
9 associated with it, unless you tell me,
10 'Judge, I think I can do it, I would like to
11 participate', then I am not going to require
12 you to do it.

13 JUROR NUMBER 63: I think it is
14 best if I don't.

15 THE COURT: I think you're
16 correct. I would agree with you a hundred
17 percent. I am not going to put you through
18 it, so you are excused. I excuse you because
19 of your health condition. I wish you the
20 best of luck.

21 JUROR NUMBER 63: Thank you, sir.

22 (JUROR NUMBER 63 EXITS COURTROOM)

23 THE COURT: The next is Juror
24 Number 319, Ms. Ulmer. This person is a
25 graduate of GW. I don't believe that I will

1 need to go into great detail about what is
2 required.

3 BRUCE DURANT: I understand.

4 (JUROR NUMBER 319 ENTERS COURTROOM)

5 THE COURT: We are talking about
6 your school. I said GW, and I thought 'no,
7 wait a minute, that's George Washington',
8 it's Washington & Lee, W&L.

9 JUROR NUMBER 319: (Affirmative
10 nod).

11 THE COURT: Good afternoon, Ms.
12 Ulmer.

13 JUROR NUMBER 319: Good afternoon.

14 THE COURT: How are you?

15 JUROR NUMBER 319: I am good,
16 thanks.

17 THE COURT: We are going to con-
18 tinue the process that we started on Friday.
19 As you probably can imagine and understand,
20 we are going to have some additional
21 questions. As you know, there are no
22 "correct" answers.

23 JUROR NUMBER 319: Yes, sir.

24 THE COURT: We just ask that you
25 be candid with your responses?

1 JUROR NUMBER 319: Yes, sir.

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

4 JUROR NUMBER 319: I understand.

5 SUZANNE ULMER, being duly sworn to
6 tell the truth, the whole truth and nothing
7 but the truth, testified, as follows:

8 VOIR DIRE EXAMINATION

9 BY THE COURT:

10 Q. Since we were together on Friday, have
11 you talked with anyone about this matter?

12 A. (Negative gesture), other than the fact
13 that I was on the jury panel.

14 Q. That's it?

15 A. (Affirmative nod).

16 Q. Nothing specific about the case?

17 A. No, sir.

18 Q. Have you read -- has anybody talked
19 about the case in your presence?

20 A. No.

21 Q. Have you watched any news accounts or
22 read any newspaper articles about it?

23 A. I watched the news but nothing about the
24 case, the national news.

25 Q. On Friday, I mentioned a number of names

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

5 A. No.

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

9 A. Yes.

10 Q. Which type most accurately describes
11 you?

12 A. Type three.

13 Q. Tell me why you think you're a type
14 three and why that applies to you?

15 A. Because of my training, I think that I
16 am objective and I know you need to hear all
17 the evidence before any decisions can be made
18 objectively.

19 Q. And you understand the difference
20 between the two phases?

21 A. Yes.

22 Q. You would be able to separate those, as
23 well?

24 A. Yes.

25 Q. You understand that the murder we are

1 talking about is murder and -- the
2 intentional killing of another with malice
3 aforethought?

4 A. Yes.

5 Q. You understand what that means?

6 A. Yes.

7 Q. It is my understanding that as a type
8 three juror that if you went into the second
9 phase that you would not have made a decision
10 as to what the appropriate sentence would be?

11 A. No.

12 Q. And you may also understand because of
13 your training and background that in this
14 state typically a jury is not involved in
15 sentencing?

16 A. Yes.

17 Q. The jury in this situation may only
18 consider the sentence of death if they first
19 find the existence of at least one
20 aggravating circumstance. Do you understand
21 that?

22 A. Yes.

23 Q. And I would define that for you?

24 A. Yes.

25 Q. And then if the jury determines an

1 aggravating circumstance, then and only then
2 may they consider a death sentence. Do you
3 understand that?

4 A. Yes.

5 Q. And you would consider -- if given that
6 opportunity, if you determined the existence
7 of an aggravating circumstance, as I
8 understand you to say, you would then apply
9 your common sense, your sense of logic and
10 reasoning fairly and impartially in analyzing
11 all the evidence, including any mitigating
12 circumstances that may exist?

13 A. (Affirmative nod).

14 Q. And decide what you believe to be the
15 appropriate sentence, whether life imprison-
16 ment or death?

17 A. Yes.

18 Q. I am not asking you to tell me which
19 type of circumstance, but there are
20 circumstances where you believe the
21 appropriate sentence that would be justified
22 would be a death sentence?

23 A. Yes.

24 Q. And there are some that even though you
25 may impose a death sentence you may choose to

1 impose a life imprisonment?

2 A. Yes.

3 Q. And you won't know which until you've
4 heard it all?

5 A. Yes.

6 Q. And part of the instruction would also
7 say that you may also, notwithstanding
8 whether there are mitigating circumstances or
9 not, you still may give a life imprisonment
10 sentence without the possibility of parole
11 for no reason at all. There ---

12 A. Would you repeat that again?

13 Q. Yeah.

14 A. I'm sorry.

15 Q. That while mitigating circumstances may
16 be something that a juror analyzing it
17 pragmatically may say, 'Well, I believe it's
18 life because of this mitigating circumstance
19 here, this and this here. I don't believe
20 the aggravating circumstances would cause me
21 to shift over, and I want to give...' -- in
22 other words, giving some rationale
23 justification for it.

24 A. (Affirmative nod).

25 Q. The jury has the right, for no reason,

1 to say 'I chose life instead of death', for
2 no reason. It's called a mercy decision.
3 You have the right to do that if you choose
4 to.

5 A. Okay.

6 Q. Would you have any problem giving fair
7 consideration to that right, as well?

8 A. Yes.

9 Q. You would be able to do it?

10 A. If that's a right, (affirmative nod).

11 Q. It's the right of the jury in fashioning
12 a sentence.

13 A. I understand.

14 Q. That's all that I am saying. I am not
15 suggesting to you that you have to ---

16 A. I understand.

17 Q. Because, as you know, the ultimate
18 decision has to be the decision that is
19 consistent with the evidence and the law and
20 that you have determined to be fair and
21 impartial and to be a just and proper
22 decision.

23 A. Right.

24 Q. That's all that I am asking. You would
25 consider all of that, all factors.

1 A. Yes.

2 Q. As you know, persons accused of criminal
3 offenses are innocent until proven guilty.

4 A. Yes.

5 Q. And you have no problem with that?

6 A. Yes (sic).

7 Q. You fully understand that presumption?

8 A. Yes.

9 Q. You also realize that persons accused
10 have no burden of proof?

11 A. Yes.

12 Q. And you would not hold this defendant to
13 any burden of proof?

14 A. Correct.

15 Q. Now, we've been talking up to this point
16 about the abstract case.

17 A. Um-humm.

18 Q. Now I am talking about Mr. Dickerson.
19 He's been accused -- you don't see that he --
20 today, as he sits here, he is innocent, as
21 far as you are concerned?

22 A. Yes.

23 Q. And you wouldn't change that position
24 until and unless the State persuaded you
25 beyond a reasonable doubt that he is guilty

1 of one or more crimes?

2 A. Yes.

3 Q. It is my understanding that there is
4 nothing that you have heard that would give
5 you any concern about your ability to, at the
6 appropriate time, to fairly and impartially
7 apply your logic, your sense of reason and
8 your life's experience and decide from the
9 evidence what you believe to be the truth and
10 then take the law, as I give it to you, and
11 apply that fairly and impartially to those
12 facts?

13 A. I have no problem with that.

14 Q. This one may be, but I don't expect that
15 you will have any problems. You may hear a
16 principle of law that differs from your
17 understanding of what the law is, and I
18 respect your right to differ, and you and I
19 can debate that at another time and place,
20 but insofar as your service on this jury, for
21 the purposes of your decision, you would
22 promise to set that aside and take the law as
23 I gave it to you.

24 A. Yes. Luckily, I was not in criminal
25 law.

1 Q. Thank you very much. Please answer any
2 questions that the attorneys may have.

3 RUTLEDGE DURANT: Thank you, Your
4 Honor.

5 VOIR DIRE EXAMINATION

6 BY RUTLEDGE DURANT:

7 Q. Ms. Ulmer, ---

8 A. Yes.

9 Q. --- my name is Rutledge Durant. This is
10 the elected, Scarlet Wilson, and the Deputy
11 Solicitor, Bruce Durant. I've just got a
12 couple of questions for you.

13 A. Okay.

14 Q. First of all, I just want to start off
15 with your general understanding or opinion on
16 the death penalty?

17 A. I don't think that I fall into either
18 group, I think it's based on the facts of the
19 case and what's going on. I cannot say that
20 I am for it or against it.

21 Q. So you are not either ---

22 A. Yes, it depends on the situation.

23 Q. Because there are some people -- on the
24 extremes of the spectrum, there are those
25 people who would always give the death

1 penalty for a murder.

2 A. Right.

3 Q. And there are people who would always
4 give a life sentence?

5 A. Right.

6 Q. And you find yourself in the middle of
7 the road?

8 A. (Affirmative nod).

9 Q In this case, as a juror you will be
10 asked to decide between -- possibly decide --
11 a sentence of life or a sentence of death.
12 Could you fairly consider both?

13 A. Yes.

14 Q. And you would be able to hand down a
15 death sentence ---

16 A. I would.

17 Q. --- under the appropriate circumstance?

18 A. Yes.

19 Q. You would also be able to sign your name
20 on a ---

21 A. Yes.

22 Q. --- death sentence?

23 A. Yes.

24 RUTLEDGE DURANT: Thank you. I
25 think that's all the questions that I have.

1 VOIR DIRE EXAMINATION

2 BY MR. BLOOM:

3 Q. Hi, Ms. Ulmer. My name is Jeff Bloom
4 and along with Andrew Carroll, who is out of
5 the room right now, we represent William
6 Dickerson. I just have a few followup
7 questions for you.

8 First of all, you heard Judge Dennis
9 explain when a jury gets to that point where
10 they are deciding between the ultimate
11 punishment or life imprisonment without the
12 possibility of parole that the law doesn't
13 require ---

14 A. Correct.

15 Q. The law, in fact, calls that an
16 individualized, reasoned moral judgment. Can
17 you accept that?

18 A. Yes.

19 Q. After you've heard all the evidence, all
20 the circumstances, the law as Judge Dennis
21 instructs it to you, after you'd discussed it
22 all with your fellow eleven jurors, debated
23 back and forth, you'd listened to them, they'd
24 listened to you, if those eleven jurors were
25 voting one way and you were voting -- if you

1 believed that your individualized and reasoned
2 moral judgment was another way, would you be
3 able to hold to that?

4 A. Yes.

5 Q. You wouldn't just give that up and say,
6 'No, it's time to go home, go to dinner.'

7 A. No.

8 Q. I didn't think that of you but you know
9 that I had to ask.

10 A. I understand.

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

12 A. Yes.

13 Q. And you would respect theirs?

14 A. Yes.

15 Q. I have just a couple of other -- I note
16 that you're an alumni of SUNY Geneseo, is Aunt
17 Cookie's Subs still there?

18 A. I am not sure. It's been a while since
19 I've been up there.

20 Q. Breaks my heart. Thank you.

21 MR. BLOOM: Thank you.

22 THE COURT: Anything else, Mr.

23 Durant?

24 RUTLEDGE DURANT: No, Your Honor.

25 THE COURT: Ms. Ulmer, thank you

1 very much. I need to talk with the attorneys
2 out of your presence. If you would, step out
3 for just a moment and we will be with you
4 momentarily.

5 (JUROR 319 EXITS COURTROOM)

6 THE COURT: She's qualified.
7 Anybody objects?

8 BRUCE DURANT: She knows too much
9 law, Your Honor.

10 THE COURT: I understand. She
11 probably could teach us a lot, I tell you
12 what.

13 (JUROR NUMBER 319 ENTERS COURTROOM)

14 THE COURT: Ms. Ulmer, thank you so
15 much. I appreciate your patience with the
16 court. You've been found to be qualified to
17 be a member of the panel from which we will
18 select our jury in this case.

19 That will occur in the morning at
20 9:30. I need for you to be here by 9:30. You
21 may come directly to the courtroom. As I've
22 told some of the other ones that are going to
23 be here, they may be a bailiff outside to
24 direct you to another courtroom until we bring
25 all the jurors in. Some jurors may be

1 arriving really early. If they take you to
2 another courtroom, they will be bringing you
3 in here.

4 Until then and until you have been
5 dismissed from this case, please remember that
6 you still are not at liberty to discuss this
7 case with anyone or permit anyone to talk with
8 you about it. Also, please continue not to
9 watch any news programs about it or read any
10 news accounts.

11 When you come tomorrow, you need to
12 come prepared to stay because if you're
13 selected we will start the trial of the case
14 after the jury is picked. Okay?

15 JUROR NUMBER 319: Okay.

16 THE COURT: Have a great after-
17 noon.

18 (JUROR NUMBER 319 EXITS COURTROOM)

19 THE COURT: Juror Number 39,
20 please. That's forty (jurors).

21 (JUROR NUMBER 38 ENTERS COURTROOM)

22 THE COURT: Good afternoon, Mr.
23 Burdette. How are you?

24 JUROR NUMBER 38: I'm fine, sir.

25 THE COURT: If you will sit and

1 pull yourself up so that you can speak into
2 that mic comfortably.

3 We are going to continue the process
4 that we started on Friday. I have some
5 questions that I need to ask of you and the
6 attorneys may have some questions. None of
7 these questions have any correct answers to
8 them. All we ask is that you be truthful with
9 your responses, candid with your responses and
10 that you answer the questions completely.
11 Will you do that?

12 JUROR NUMBER 38: Yes, sir.

13 THE COURT: And please know that no
14 one here, that none of these questions have
15 "correct" answers.

16 They are not designed to challenge
17 you in any way or to challenge your beliefs.
18 You are entitled to those. Don't feel as
19 though you have to defend yourself or defend
20 your philosophies. That is not necessary. We
21 respect that and will honor that.

22 Also, we are not here to invade any
23 privacy either. You are still under oath in
24 this matter. Do you realize that?

25 JUROR NUMBER 38: 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.

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1 ANN BURDETTE, being duly sworn to
2 tell the truth, the whole truth and nothing
3 but the truth, testified, as follows:

4 VOIR DIRE EXAMINATION
5 BY THE COURT:

6 Q. Since we were together on Friday, have
7 you talked with anyone, permitted anyone to
8 talk with you -- talked to anyone, permitted
9 anyone to talk to you about this case or to
10 talk about it in your presence?

11 A. No, sir.

12 Q. Since we were together last?

13 A. No, sir. I made my sister quit
14 discussing it and got off the phone.

15 Q. Thank you. Likewise, have you watched
16 any news accounts or read any newspaper
17 articles about it?

18 A. No, sir.

19 Q. On Friday, I mentioned a number of names
20 and I need to give you two more to find out if
21 you're related by blood or marriage, have any
22 business dealings with or socially or casually
23 acquainted with either a Jeff Osborne or a
24 Matt Casey?

25 A. Not that I am aware of. No, sir.

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

5 A. Yes.

6 Q. Which type most accurately describes you?

7 A. I would be a juror number two.

8 Q. Number two?

9 A. (Affirmative nod).

10 Q. Tell me why you believe that and what you
11 understand juror type number two to be?

12 A. I believe that it is one that believes in
13 life imprisonment and not the death penalty.

14 Q. It is also one that says while you have
15 the right to believe that, it takes it one
16 step further and that is that that would be
17 the case in every single murder?

18 A. Yes, sir, I am not a death penalty
19 person.

20 Q. Under any circumstances?

21 A. Under any circumstances.

22 Q. So notwithstanding those strong feelings,
23 even though the court told you that you should
24 consider, you would be entitled to consider a
25 circumstance where a death penalty could be

1 returned, there is no circumstance where you
2 could vote to return a death sentence?

3 A. Not one that I've ever been presented
4 with.

5 Q. And you can't think of one?

6 A. No, not at this time.

7 THE COURT: Thank you, ma'am. Any
8 questions from the State?

9 BRUCE DURANT: No, sir.

10 THE COURT: Mr. Bloom?

11 MR. BLOOM: Very briefly, Your
12 Honor.

13 THE COURT: Yes, sir.

14 VOIR DIRE EXAMINATION

15 BY MR. BLOOM:

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

20 Ma'am, would you ever be able to set that
21 belief aside and serve in such a case and
22 impose ---

23 A. I am certain I would.

24 Q. Well, I didn't quite finish my question.
25 I'm sorry.

1 A. That's all right.

2 Q. Would you ever be able to set your
3 opinion aside and serve in such a case where
4 you might be able to consider an offense
5 appropriate to impose a death sentence, in any
6 situation?

7 A. Can you repeat the question?

8 Q. Basically I am just asking if you would
9 set your belief aside or would that be too
10 hard to do?

11 A. No, I probably could.

12 Q. Okay.

13 A. Depending on the circumstances, what was
14 set before me.

15 Q. Again, we're talking about the penalty,
16 not if a person is guilty or not guilty.
17 We're talking about in terms of death penalty
18 or life imprisonment without the possibility
19 of parole. That was my question, if you could
20 set your belief aside and ---

21 A. Oh, in that case, no. I do not believe
22 in the death penalty. I think life without
23 parole is an honest and fair sentence.

24 Q. Is this a belief that you hold based on
25 your religious faith or religious beliefs?

1. A. Religious and other beliefs.

2 MR. BLOOM: Thank you very much.

3 JUROR NUMBER 38: You're welcome.

4 THE COURT: Anything further from
5 the State?

6 BRUCE DURANT: Nothing, Your
7 Honor.

8 THE COURT: Thank you very much.
9 Ms. Burdette, if you would step out just for a
10 moment. Well, I -- no, no need to do that.
11 Excuse me. I am going to do what -- I told
12 you that we would honor that belief and I am
13 going to do that. You're excused from further
14 participation. Thank you for your commitment
15 to the process. Good luck to you, ma'am.

16 JUROR NUMBER 38: Thank you very
17 much.

18 (JUROR NUMBER 38 EXITS COURTROOM)

19 THE COURT: The State doesn't
20 object to the disqualification.

21 SOLICITOR WILSON: That's correct.

22 THE COURT: Mr. Bloom, I'll be
23 happy to hear from you.

24 MR. BLOOM: Judge, we just make the
25 same objection that we made with the other

1 jurors under the First, Eighth and Fourteenth
2 Amendment.

3 THE COURT: Very well, and my
4 ruling would be the rationale, the same as
5 previously stated.

6 All right, let's bring in Juror
7 Number 26, Ms. Bradshaw.

8 (JUROR NUMBER 26 ENTERS COURTROOM)

9 THE COURT: Good afternoon, Ms.
10 Bradshaw. How are you?

11 JUROR NUMBER 26: I'm good. How are
12 you?

13 THE COURT: Great, thank you.
14 Thank you for your patience. You are almost
15 to the point where we're probably going to let
16 you get out of here.

17 We started a process on Friday
18 talking about this case and there are some
19 additional questions that I need to ask of
20 you.

21 Just as you probably discerned on
22 Friday, there are no correct answers to any of
23 these questions. The purpose of the questions
24 is to help you and to help us make a
25 determination as to whether you can be a fair

1 and impartial juror. Okay?

2 JUROR NUMBER 26: Yes, sir.

3 THE COURT: All that we ask is that
4 you respond truthfully to the questions and
5 candidly, and that you answer the question
6 completely. Will you do that?

7 JUROR NUMBER 26: Yes, sir.

8 THE COURT: I would remind you in
9 that regard that you are still under oath in
10 this matter. Okay?

11 JUROR NUMBER 26: Yes, sir.

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

15 VOIR DIRE EXAMINATION

16 BY THE COURT:

17 Q. Would you state your full name for the
18 record, please?

19 A. Laura Kristen Bradshaw.

20 Q. Ms. Bradshaw, since we were together on
21 Friday have you read anything, talked with
22 anyone, permitted anyone to talk with you or
23 permitted anyone to talk about this case in
24 your presence?

25 A. No, sir.

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

6 A. No, sir.

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

10 A. Yes, sir, I have.

11 Q. Have you had a chance to reflect on which
12 one most accurately describes you?

13 A. Yes, sir.

14 Q. Which one is that?

15 A. I would say type number three.

16 Q. Okay. Tell me why you believe that
17 you're a type three and what about type three
18 makes you believe that?

19 A. Really the first two just seem so black-
20 and-white to me. I am the type of person that
21 I like to see both sides of the story, both
22 angles that can bring certain things to a
23 case. If you hear one side, you normally just
24 go with that one side. I just like to keep
25 myself open-minded and hear all the -- both

1 sides of a case.

2 Q. That's interesting. You just mentioned
3 something that I believe is fairly significant
4 in the performance of the task as a juror is a
5 pretty significant characteristic. That is, a
6 juror needs to be open-minded when they start
7 the process. Do you agree with that?

8 A. Yes, sir.

9 Q. And as you've stated here, let's talk
10 about that situation that is reflected on that
11 sheet. Basically it's obvious from reading it
12 that that's a juror that would be involved in
13 sentencing someone for the crime of murder; do
14 you understand that?

15 A. Yes, sir.

16 Q. And let me also tell us that at the point
17 that the sheet that the questions surround,
18 that jury would have already heard the first
19 phase; that is, they would have been presented
20 evidence concerning the crime and a decision
21 would have been made by that jury and you
22 would have been on that jury as a type three
23 juror. You would have voted with your other
24 jurors that the State had convinced you beyond
25 a reasonable doubt that the person accused of

1 this crime had committed the crime and you
2 found the crime to be murder beyond a
3 reasonable doubt. Okay?

4 Murder. Let's talk about that. Murder
5 is the intentional killing of someone with
6 malice aforethought. That means that
7 somebody, with malice, went out intending to
8 kill somebody. They weren't -- they didn't
9 have any reason to do it, no justification for
10 doing it, they were evil in their thoughts,
11 mean-spirited, malicious and they carried it
12 out. You'd found that person guilty.

13 It wasn't -- in this state the lesser-
14 included offense is sometimes manslaughter or
15 involuntary manslaughter. It was none of
16 those. Manslaughter is the killing of someone
17 in the sudden heat of passion. Involuntary
18 manslaughter is a reckless act that sometimes
19 results in a death. It was neither of those,
20 you'd ruled those out.

21 It wasn't self-defense, it wasn't an
22 accident. It was murder. Okay?

23 At that point, as I understand what
24 you've just said, because you're about now at
25 the conclusion, being a jury -- you're a jury

1 that has been empaneled not only to determine
2 the charge but also to determine the
3 punishment.

4 A. Correct.

5 Q. And you haven't heard any evidence on
6 that yet. I understand what you're saying,
7 what you've basically said is this: 'Yeah,
8 I've determined that he is guilty. That's it.
9 The crime is murder. But I still don't know
10 whether the sentence should be life
11 imprisonment without the possibility of parole
12 or the death sentence because I haven't heard
13 the evidence yet.'

14 A. Correct.

15 Q. That's you?

16 A. Correct.

17 Q. And also based on what you've said, 'I
18 have an open mind as to which one that it
19 should be.' Is that correct?

20 A. Correct.

21 Q. 'And I won't be able to change that
22 position until I've heard all the evidence and
23 until I've received the instruction on the law
24 from the court.'

25 A. Yes, sir.

1 Q. That would be you?

2 A. Yes, sir.

3 Q. Well, it is important insofar as it's
4 proper insofar as performing the task as a
5 juror, what you would have accepted when you
6 started the process; which is to stay open
7 when you -- you were instructed them to change
8 your mind, you considered the evidence
9 carefully, you evaluated it, applying your
10 common sense and you found the person was
11 guilty of murder. That was fulfilling that
12 responsibility.

13 A. (Affirmative nod).

14 Q. Now you're open again: 'I haven't heard
15 anything. Won't know until I have heard it
16 all.' Right?

17 A. Right.

18 Q. It is important because normally a jury
19 is not involved in sentencing. Normally in
20 that setting, if a jury convicted this person
21 of murder a judge would have excused you, said
22 'thank you very much.' The judge would have
23 imposed a sentence. The sentencing judge
24 could have imposed a sentence of life without
25 parole or some lesser number of years. They

1 wouldn't have to -- they wouldn't be bound by
2 that. But there is no way that a judge could
3 have imposed, in a normal setting, a death
4 sentence. Do you understand that?

5 A. Yes, sir.

6 Q. Therefore the first thing that you need
7 to know about the second phase is that unless
8 you find certain circumstances, that we call
9 aggravating circumstances, exist beyond a
10 reasonable doubt, you can't even consider a
11 death sentence. In other words, the jury
12 would have to return a life imprisonment.

13 A. Yes.

14 Q. You wouldn't have any problem with that,
15 is that right?

16 A. No, (affirmative nod).

17 Q. The aggravating circumstances, and there
18 are a number of them, are circumstances that
19 the Legislature says if they exist with the
20 crime of murder, then in those situations a
21 jury may then consider in addition to life
22 imprisonment a death sentence. That has to
23 be established beyond a reasonable doubt.

24 Some of those circumstances -- there are
25 many, but some of them are the killing of a

1 police officer or the killing of a child.

2 Those are two, there are others.

3 But if the jury -- if you were on that
4 abstract case and you concluded that there
5 were aggravating circumstances, then
6 consistent with the instruction you would be
7 empowered to impose a death sentence if you
8 chose to or life in prison. Do you under-
9 stand?

10 A. Yes, sir.

11 Q. If it my understand that you would want
12 to -- at this point you still would not --
13 even after determining the existence of an
14 aggravating circumstance, which gives you the
15 right to -- you still wouldn't know which one
16 it was until you'd considered all the
17 circumstances and had a chance ---

18 A. Yes, sir.

19 Q. --- to talk with other jurors and then
20 make a decision for yourself?

21 A. Yes, sir.

22 Q. It is my understanding that you believe
23 that you would have the ability to apply your
24 common sense, your sense of logic and reason
25 fairly and impartially in performing that

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1 task; is that correct?

2 A. Yes, sir, I would.

3 Q. And you would decide what you believe to
4 be the true facts, take the law and apply it
5 fairly and impartially to those facts, and
6 your decision -- depending on the facts and
7 circumstances -- could be a death sentence; is
8 that correct?

9 A. Yes, sir.

10 Q. Or even though you had the right to
11 impose a death sentence, you could choose to
12 impose a life imprisonment without the
13 possibility of parole.

14 A. Yes, sir.

15 Q. Is that right?

16 A. Yes, sir.

17 Q. And you believe that whatever result that
18 you did it would be fair and just and
19 consistent with the evidence and the law?

20 A. Yes, sir.

21 Q. One other -- there are a number of
22 factors that you would be instructed to
23 consider but one of them is that the court
24 would instruct you that for you to consider
25 the evidence and if there are mitigating

1 circumstances, some of those may be statutory
2 and some may be nonstatutory; meaning that
3 those are just common sense, known to people.

4 A. (Affirmative nod).

5 Q. And "mitigating", as that term would
6 imply, are those circumstances that would tend
7 to make -- while the aggravating circumstances
8 raise the murder to allow the death penalty,
9 the mitigating circumstances start moving it
10 back towards that normal situation when
11 someone's life has been taken and does not
12 permit life imprisonment.

13 None of these things that I am talking
14 about are controlling. In other words, the
15 aggravating circumstances doesn't mean that
16 you have to return a death sentence. You
17 still have the right to -- you can't return it
18 without it but if it is there, it doesn't mean
19 that you have to.

20 The mitigating circumstances doesn't mean
21 that you have to return a life imprisonment.
22 That just means that it may be something that
23 you want to consider in making your
24 determination.

25 In fact, I will tell you that if there

1 are mitigating circumstances, an instruction
2 would say that you would have to give
3 meaningful consideration to those.

4 Those would be important, I would assume,
5 to you if you're looking at all the facts and
6 circumstances, as you've stated that you are.
7 Is that correct?

8 A. Yes, sir.

9 Q. So they would -- you would give
10 meaningful consideration to those ---

11 A. I could.

12 Q. I would instruct you also that persons
13 committing that offense would have no burden
14 to prove anything in either phase.

15 A. (Affirmative nod).

16 Q. That includes the second phase. He
17 doesn't have to prove mitigating
18 circumstances. He doesn't have to -- he
19 doesn't even have to testify. I would tell
20 you that you can't use that against him.
21 Would you have any problem following that
22 instruction?

23 A. No, sir.

24 Q. And if there weren't any mitigating
25 circumstances in evidence, you wouldn't hold

1 that against the defendant?

2 A. No, sir.

3 Q. You would still make the decision based
4 on what was presented to you?

5 A. Yes, sir.

6 Q. Also part of the instruction would tell
7 you that if for no reason you wanted to impose
8 a life without the possibility of parole
9 instead of the death penalty that you have
10 that right?

11 A. Yes, sir.

12 Q. So you would also be able to consider
13 that and weigh that right, as well; is that
14 right?

15 A. Yes, sir.

16 Q. And you could do that fairly and
17 impartially?

18 A. Yes, Your Honor, I would.

19 Q. Let's look for a moment -- we will put
20 the abstract case aside. On Friday I
21 mentioned to you that Mr. Dickerson has been
22 accused of committing some criminal offenses.
23 I told you that a major principle of law
24 affecting those accused of such offenses are
25 that they are presumed innocent. You

1 indicated that you had no problem with that.

2 A. Correct.

3 Q. In fact, it is an active presumption and
4 that presumption is required to be maintained
5 at all times until the State persuades you
6 otherwise, that is beyond a reasonable doubt,
7 that he committed one or more of those
8 offenses. Do you understand that?

9 A. Yes, I do.

10 Q. So today -- considering that principle of
11 law, do you look at Mr. Dickerson as being
12 innocent of these charges?

13 A. Yes, sir, I do.

14 Q. And you would be able to maintain that
15 position until you were instructed by the
16 court, if you were on the jury, to begin your
17 deliberations and only after you had
18 considered all the evidence and applied the
19 law and were convinced beyond a reasonable
20 doubt that the State had established each
21 element of a particular crime would you change
22 that position?

23 A. Yes, sir.

24 Q. And you would perform those tasks fairly
25 and impartially and start with an open mind,

1 as you stated that you would in that abstract?

2 A. Yes, sir.

3 Q. Throughout the entire process?

4 A. Yes, sir.

5 Q. Would you also be willing to accept the

6 law as I gave it to you and apply that law

7 fairly and impartially?

8 A. Yes, sir.

9 Q. And that is even if during the charge you

10 heard some law that caused you to think, 'you

11 know, I don't like that law' or 'I think that

12 law ought to be changed.' You would set aside

13 those feelings?

14 A. Yes, sir, I would.

15 THE COURT: Please answer any

16 questions that the attorneys may have.

17 RUTLEDGE DURANT: Thank you, Your

18 Honor.

19 VOIR DIRE EXAMINATION

20 BY RUTLEDGE DURANT:

21 Q. Ms. Bradshaw, my name is Rutledge Durant.

22 I am an Assistant Solicitor here in

23 Charleston. This is the elected Solicitor,

24 Scarlet Wilson. This is the Chief Deputy

25 Solicitor, Bruce Durant.

1 Based on everything that you've told
2 Judge Dennis, we don't have any questions for
3 you.

4 A. Okay.

5 VOIR DIRE EXAMINATION

6 BY MR. BLOOM:

7 Q. Ms. Bradshaw, my name is Jeff Bloom and
8 along with Andrew Carroll, who is out of the
9 courtroom right now, we represent William
10 Dickerson. I just have a handful of questions
11 for you, ma'am.

12 Judge Dennis will tell you that if you
13 were a juror trying to decide between the
14 ultimate punishment and life without parole,
15 that choice is totally yours after hearing all
16 the evidence and hearing the instruction.

17 A. Yes, sir.

18 Q. There is no law or order or rule that
19 requires a juror to vote for death. You
20 understand that?

21 A. Correct.

22 Q. And the law calls that a individualized,
23 reasoned moral judgment. Can you accept that?

24 A. Yes.

25 Q. And after you've heard all the evidence,

1 all the circumstances, the instructions from
2 Judge Dennis, and you've discussed it with
3 your fellow jurors, if eleven jurors were
4 going one way and you were going another, you
5 wouldn't just give up your vote to go along;
6 would you?

7 A. No, sir, I would not.

8 Q. You could hold to that individualized,
9 reasoned moral judgment?

10 A. Absolutely.

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

12 A. Yes, sir.

13 Q. And you would respect theirs?

14 A. Yes, sir.

15 MR. BLOOM: Thank you, ma'am, I
16 have no further questions. Thank you for
17 being here.

18 THE COURT: Anything else, Mr.
19 Durant?

20 RUTLEDGE DURANT: No, Your Honor.

21 THE COURT: Thank you very much. I
22 need to speak to the attorneys for just a
23 moment. If you would, just step out and I'll
24 be with you momentarily. ?

25 A.

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1 (JUROR NUMBER 26 EXITS COURTROOM)

2 THE COURT: I believe she is
3 qualified. Any objection, Mr. (Rutledge)
4 Durant?

5 RUTLEDGE DURANT: No, Your Honor.

6 THE COURT: Any objection from the
7 defendant?

8 MR. BLOOM: No, Your Honor

9 THE COURT: Thank you. Ask her to
10 step back in.

11 (JUROR NUMBER 26 ENTERS COURTROOM)

12 THE COURT: Thank you so much, Ms.
13 Bradshaw. We find that you're qualified to
14 serve, to be a member of the panel from which
15 we will select our jury.

16 That will occur tomorrow morning at 9:30.
17 I need for you to be back here by 9:30.

18 JUROR NUMBER 26: Okay.

19 THE COURT: Come directly to the
20 courtroom. You may be directed to another
21 courtroom until we start but follow the
22 instructions of the bailiff or just be here.

23 Please understand that until you are
24 dismissed from this case, you are not free to
25 discuss this case with anyone or permit anyone

1 to talk about it in your presence. Also,
2 continue not to watch any news programs about
3 it or read any newspaper articles.

4 Tomorrow when you come, be prepared
5 to stand because if you're selected we'll
6 start the trial of the case.

7 JUROR NUMBER 26: Okay.

8 THE COURT: Have a good afternoon.
9 Thank you.

10 (JUROR NUMBER 26 EXITS COURTROOM)

11 THE COURT: Juror Number 281,
12 Tameka Singleton.

13 (JUROR NUMBER 281 ENTERS COURTROOM)

14 THE COURT: Good afternoon, Ms.
15 Singleton.

16 JUROR NUMBER 281: Good afternoon.

17
18 THE COURT: We are going to
19 continue the process that we started on
20 Friday. I have some questions that I need to
21 ask of you and the attorneys may have some
22 questions. None of these questions have any
23 correct answers to them. All we ask is that
24 you be truthful with your responses, candid
25 with your responses and that you answer the

1 questions completely. Will do you do that?

2 JUROR NUMBER 281: Yes, sir.

3 THE COURT: And please know that no
4 one here, that none of these questions have
5 "correct" answers.

6 They are not designed to challenge
7 you in any way or to challenge your beliefs.
8 You are entitled to those. Don't feel as
9 though you have to defend yourself or defend
10 your philosophies. That is not necessary. We
11 respect that and will honor that.

12 Also, we are not here to invade any
13 privacy either. You are still under oath in
14 this matter. Okay?

15 JUROR NUMBER 281: Yes, sir.

16 TAMEKA SINGLETON, being duly sworn
17 to tell the truth, the whole truth and nothing
18 but the truth, testified, as follows:

19 VOIR DIRE EXAMINATION

20 BY THE COURT:

21 Q. State your name for the record.

22 A. Tameka Shenelle Singleton.

23 Q. Ms. Singleton, since we were together on
24 Friday have you talked with anyone, permitted
25 anyone to talk with you about this case or to

1 talk about it in your presence?

2 A. No.

3 Q. Have you watched any news accounts or
4 read any newspaper articles about it?

5 A. No.

6 Q. On Friday, I mentioned a number of names
7 but I failed to mention two names that I need
8 to ask you about. Are you related by blood or
9 marriage, have any business dealings with or
10 socially or casually acquainted with either a
11 Jeff Osborne or Matt Casey?

12 A. No.

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

16 A. Yes.

17 Q. Which type most accurately describes you?

18 A. Type three.

19 Q. And that is a juror -- well, tell me what
20 you believe a type three is and why it applies
21 to you?

22 A. A type three juror is a juror that would
23 not have made up their minds before the case
24 ends, and would consider either a sentence of
25 life imprisonment without the possibility of

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1 parole or a death sentence depending on the
2 facts.

3 Q. And you could do either?

4 A. (Affirmative nod).

5 Q. That would be your -- your position?

6 A. Yes, sir.

7 Q. Okay. And which one would apply would
8 depend on the facts and circumstances in a
9 given case; is that correct, is that right?

10 A. That's correct.

11 Q. And you understand that when -- this case
12 that you've -- the situation that you have on
13 that sheet, describes three jurors who are
14 presently involved in a trial of a murder
15 case. They are at midpoint, the murder has
16 already been established. Okay?

17 In other words, you were on that jury and
18 you've been a part of that decision and you've
19 found that the State has convinced you beyond
20 a reasonable doubt that the person accused was
21 guilty of murder.

22 Murder is the intentional killing of
23 somebody with malice aforethought, a malicious
24 killing. It is not accident, it is not 'I
25 didn't mean to do it', it is not self-defense.

1 It is not mistaken, they were motivated by
2 evil intentions, they were -- it was
3 malicious, ill will and they carried it out
4 and killed somebody.

5 It was not manslaughter where they were
6 provoked into doing something. It was not
7 involuntary manslaughter -- not that they just
8 made a mistake.

9 Okay?

10 A. (No verbal response).

11 Q. As I understand, being a part of that --
12 and now you're getting ready to hear the
13 second phase where you've going to determine
14 the punishment, -- do you understand that?

15 A. Yes.

16 Q. And you would not have made a decision at
17 that point?

18 A. No, sir.

19 Q. Is that right?

20 A. Are you saying that ---

21 Q. You've already heard that they committed
22 the crime of murder, no question about it, no
23 question that it is murder.

24 A. Okay.

25 Q. Now -- because normally the jury doesn't

1 participate in a sentencing.

2 A. Right.

3 Q. But because the State has claimed and is
4 seeking a death sentence, they have to do
5 certain things and that occurs in the second
6 phase, where you hear evidence of what -- that
7 would be assisting you in making that
8 determination. In other words, you wouldn't
9 have heard any of this in the first phase, the
10 first portion. The first portion is confined
11 just to the charge itself and nothing else.
12 While that is evidence that you will certainly
13 consider in determining the appropriate
14 sentence, you'll hear additional evidence now
15 in this second phase. Do you understand that?

16 A. Yes, sir.

17 Q. I ask you again, you've convicted them of
18 murder and you're able to start on the second
19 phase, do you have in your mind what sentence
20 you think would be appropriate at this point?

21 A. No, I still would be a type three.

22 Q. You still don't know which type that it
23 would be, you'd have to hear all the evidence?

24 A. Correct.

25 Q. And you would have an open mind about

1 that?

2 A. Yes.

3 Q. The second phase, you would hear -- the
4 court would tell you that the first thing that
5 the jury would have to do to be entitled to
6 even consider a death sentence is to find some
7 aggravating circumstance.

8 The law provides for a number of them --
9 just by way of examples and illustration, the
10 Legislature said that if someone kills a
11 police officer or kills a child and that jury
12 were to consider that case and find that had
13 been established beyond a reasonable doubt,
14 then that jury would be able to consider a
15 death penalty. They wouldn't have to bring
16 back one but they could consider a death
17 sentence.

18 But if there are no aggravating
19 circumstances -- and the State has to prove
20 that, they have to establish that beyond a
21 reasonable doubt. If they fail to do that,
22 then the only sentence that you can bring is
23 life without parole. Do you understand that?

24 A. Yes, sir.

25 Q. Any problem with following that law?

1 A. No.

2 Q. But if you have an aggravating
3 circumstance and you would have determined
4 that beyond a reasonable doubt, then the State
5 says that you may then consider it. You
6 aren't bound to bring it back, you're not
7 required to bring it back, the court is not
8 going to tell you that you must return it if
9 you find that. It just simply says that you
10 have the right to do so. Okay?

11 A. (Affirmative nod).

12 Q. It is my understanding that if you're in
13 that situation you would want to consider all
14 of the evidence and give serious, meaningful
15 consideration to everything that has been
16 presented in that second phase before you make
17 a determination. Is that right?

18 A. That's correct.

19 Q. That would include any mitigating
20 circumstances which may be presented; is that
21 true?

22 A. Yes.

23 Q. And those are circumstances, some are
24 statutory and some are just common sense, such
25 as somebody may be addicted and the addiction

1 -- they were under the influence of some drug
2 or substance, they had abused some substance.

3 They have some mental issues that would
4 cause them to -- would give you some
5 explanation for their actions. Similar type
6 situations.

7 There are a number and the court would
8 describe those for you, but you would have to
9 give meaningful consideration to those. Are
10 you willing to do that, too?

11 A. Yes.

12 Q. And you could do that?

13 A. Yes.

14 Q. You also would be told -- like I told
15 you, you're not required to return a death
16 sentence if you find an aggravating
17 circumstance, but you can. You have to do it
18 based on what your assessment is what the fair
19 and just verdict would be. You must consider
20 between life imprisonment without the
21 possibility of parole and the death sentence.
22 Do you feel that you could do that?

23 A. Yes.

24 Q. Also you would be instructed that if you
25 choose to, that you're entitled to bring back

1 a life imprisonment without the possibility of
2 parole for no reason. Do you understand that?

3 A. Yes.

4 Q. And you could weigh all of that and
5 consider all the law fairly and impartially
6 and then make a decision?

7 A. Yes.

8 Q. It might be death or it might be life
9 imprisonment without the possibility of
10 parole?

11 A. Yes.

12 Q. Is that right?

13 A. Yes.

14 Q. But you won't know the answer to that
15 until you've heard all the facts and
16 circumstances of a given case; is that
17 correct?

18 A. That's correct.

19 Q. Let's look at this case for a moment.
20 You mentioned -- when I started on Friday, I
21 told you that Mr. Dickerson has been accused
22 of several criminal offenses. I also told you
23 that as anyone accused of a criminal offense
24 that he is innocent until proven guilty. That
25 is that presumption of innocence. That is an

1 active presumption. You have to see him as
2 being innocent. Today, do you believe that he
3 is innocent of these charges?

4 A. Yes.

5 Q. And would you hold onto that presumption,
6 that mental state of how you view him until
7 and unless the State persuades you otherwise
8 if you were on the jury, and that would be
9 when you were instructed to begin your
10 deliberations.

11 Only after considering all the evidence
12 and the law and then deciding, 'you know, the
13 State has convinced me beyond a reasonable
14 doubt of each element of this crime', then you
15 may change that position and then you would be
16 expected to return a verdict of guilty should
17 that happen. Would you be able to do that?

18 A. Yes.

19 Q. Through, being a number three juror, you
20 could be fair and impartial?

21 A. Yes.

22 Q. You would take the law as I give it to
23 you and apply that fairly and impartially, as
24 well?

25 A. Yes, I can.

1 THE COURT: Thank you. Please
2 answer any questions that the attorneys may
3 have for you.

4 VOIR DIRE EXAMINATION

5 BY MR. BLOOM:

6 Q. Ms. Singleton, good afternoon. My name
7 is Jeff Bloom and along with Andrew Carroll,
8 who is out of the courtroom right now, we
9 represent William Dickerson. I just have a
10 few questions to follow up.

11 Ma'am, if we were just -- if we'd just
12 met after work, were sharing a coffee together
13 or something and got into a discussion about
14 the death penalty, maybe we saw something on
15 the TV, not about this case but just
16 generally, and I said to you, 'Well, what's
17 your opinion about the death penalty?' What
18 would your response be?

19 A. I would say that it depends on the
20 circumstances if I believe that the death
21 penalty is necessary and if -- I think it all,
22 all the factors and the law, it would just
23 depend on whether I would think the death
24 penalty was necessary in a case.

25 Q. Okay. Thank you, ma'am. And, lastly, I

1 just have a few followups. You heard Judge
2 Dennis tell you that if you were a juror in
3 such a case that each juror comes to their own
4 decision about the ultimate punishment or life
5 without parole. The law doesn't ever require
6 it, order it, there is no rule that dictates
7 it. You understood that?

8 A. Yes.

9 Q. And the law calls that an individualized,
10 reasoned moral judgment. Can you accept that?

11 A. Yes.

12 Q. After you've heard all the evidence, all
13 the circumstances, the law as Judge Dennis has
14 gave it to you, you've gone to the jury room
15 with the other eleven jurors, you'all have
16 discussed it, debated it, everybody went
17 around, you've listened to them, they have
18 listened to you. If eleven jurors were voting
19 one way and you were voting another and you
20 had made, after everything your own
21 individualized, reasoned moral judgment, would
22 you be able to stand your ground and hold onto
23 that?

24 A. Yes, I would.

25 Q. You are not the type of person who would

1 just give up you vote and go along to get
2 along?

3 A. No, sir.

4 Q. Okay. I didn't think so, but I had to
5 ask. And, lastly, ma'am, you would then ask
6 the other jurors to respect your vote?

7 A. Sure.

8 Q. Just as you would respect theirs?

9 A. Yes.

10 MR. BLOOM: Thank you.

11 THE COURT: State?

12 VOIR DIRE EXAMINATION

13 BY RUTLEDGE DURANT:

14 Q. Ms. Singleton, I see you're a newly wed.
15 Congratulations.

16 A. Thank you.

17 Q. My name is Rutledge Durant and I'm an
18 assistant solicitor here in Charleston. This
19 is Scarlet Wilson, the elected Solicitor, and
20 this is Bruce Durant, he is the Chief Deputy
21 Solicitor. Based on your answers to questions
22 you have already been asked, we don't have any
23 other questions for you.

24 THE COURT: Thank you. Ms.

25 Singleton, I am going to find that you are

1 qualified to sit on this panel. I am going to
2 ask that you return to the courtroom tomorrow
3 at 9:30.

4 Please continue not to talk about
5 this case or to permit anyone to talk with you
6 about this case.

7 Be here at 9:30. They will either
8 let you come into the courtroom or the
9 bailiffs will take you to another courtroom
10 but we will start the selective process.

11 Please come prepared to stay because
12 if you're on the jury we will start the trial
13 tomorrow. Okay?

14 JUROR NUMBER 281: Okay.

15 THE COURT: Have a good evening.
16 See you tomorrow at 9:30.

17 (JUROR NUMBER 281 EXITS COURTROOM)

18 THE COURT: I made a rash
19 assumption and assumed she's qualified,
20 because I think she is. Any objection from
21 the State?

22 RUTLEDGE DURANT: No, sir.

23 THE COURT: Any objection from the
24 defense?

25 MR. BLOOM: No, sir.

1 THE COURT: Thank you very much.

2 Let's bring in Mr. Suggs.

3 (JUROR NUMBER 304 ENTERS COURTROOM)

4 THE COURT: Hello, Mr. Suggs. The
5 last one. How are you?

6 JUROR NUMBER 304: Good afternoon.
7 Good, sir.

8 THE COURT: Good to see you again.

9 JUROR NUMBER 304: Yes, sir.

10 THE COURT: And thank you for your
11 patience.

12 JUROR NUMBER 304: You're welcome.

13 THE COURT: We are going to
14 continue the process that we started on
15 Friday. I have some questions that I need to
16 ask of you and the attorneys may have some
17 questions. None of these questions have any
18 correct answers to them. All we ask is that
19 you be truthful with your responses, candid
20 with your responses and that you answer the
21 questions completely. Will do you do that?

22 JUROR NUMBER 304: Yes, sir.

23 THE COURT: They are not designed
24 to challenge you in any way or to challenge
25 your beliefs. You are entitled to those.

1 Don't feel as though you have to defend
2 yourself or defend your philosophies. That is
3 not necessary. We respect that and will honor
4 that.

5 Also, we are not here to invade any
6 privacy either. You are still under oath in
7 this matter. Will you honor that and answer
8 truthfully.

9 JUROR NUMBER 281: Yes, sir.

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

13 VOIR DIRE EXAMINATION

14 BY THE COURT:

15 Q. Have you talked with anyone, permitted
16 anyone to talk with you, watched any TV
17 programs or read any news accounts of this
18 since we were last together?

19 A. No, sir, none. I just put the papers and
20 everything to the side.

21 Q. Thank you, sir. I gave you a number of
22 names but I failed to ask you, on Friday,
23 whether you knew or were related by blood or
24 marriage to Jeff Osborne or Matt Casey?

25 A. No, sir.

1 Q. You were given a sheet that described
2 three types of jurors?

3 A. Yes, sir.

4 Q. You've had a chance to review that?

5 A. Yes, sir.

6 Q. Which of the three most accurately
7 describes you?

8 A. Three.

9 Q. Why? Tell me what it is that makes you
10 conclude that?

11 A. Because I really haven't heard the
12 evidence or the case and before I can do that,
13 I would have to weigh all of that before I
14 could make up in my mind what should be done.

15 Q. That would be the case even if you were
16 -- let's -- the case that you read, assuming
17 for a moment that you had convicted a person
18 of the crime of murder -- and that's the
19 intentional killing of somebody, not mistake,
20 not any lesser offense, it's with malice --
21 that that has been established and you'd voted
22 to find that, that doesn't change your
23 position?

24 A. No, sir.

25 Q. Because you would be empaneled to decide

1 the penalty and that -- you would know that
2 there would be additional evidence that would
3 be presented?

4 A. Yes, sir.

5 Q. And you'd have to hear all of that first?

6 A. Yes, sir.

7 Q. The second phase, the court would tell
8 you first of all that in order to even
9 consider a death sentence in that abstract
10 case that you would first have to find beyond
11 a reasonable doubt that the State had
12 convinced you of the existence of some
13 aggravating circumstance. Without that, no
14 one -- the jury, the court, no one -- can
15 impose a death sentence. Okay?

16 A. (No verbal response).

17 Q. By way of example, and there are a
18 number, but the killing of a police officer is
19 one or the killing of a child. That type of
20 situation is what changes it and gives --
21 brings the murder up to allow and permit the
22 death sentence. Okay?

23 A. Okay.

24 Q. You wouldn't have any problem following
25 that instruction?

1 A. No, sir.

2 Q. And that is that if the State failed to
3 prove it beyond a reasonable doubt you'd have
4 to bring back a verdict without the
5 possibility of parole. Do you understand
6 that?

7 A. I would have to see the facts. Yes, sir.

8 Q. I understand that. But if you didn't
9 find ---

10 A. Yes, sir.

11 Q. --- an aggravating circumstance, you
12 couldn't even bring back a death sentence.
13 Okay?

14 A. Yes, sir.

15 Q. You could follow that instruction?

16 A. Yes, sir.

17 Q. Now, if you found an aggravating
18 circumstance, the court would say finding
19 that, concluding that the State had convinced
20 you of that, it is necessary for you now to
21 consider, but you don't have to, -- in other
22 words, you now have a choice; whereas before
23 you didn't have a choice, you now have a
24 choice. Your choice can either be life
25 imprisonment without the possibility of parole

1 or a death sentence.

2 It is my understand that as a type three
3 juror that before you could make that choice
4 you would have had to have heard all of the
5 evidence involved in that second phase.

6 A. That's correct.

7 Q. And that would include, because you might
8 hear evidence of mitigating circumstances
9 which tend to make the crime less; such as,
10 some are statutory, some are none, such as
11 addictions that the defendant may have had in
12 his life, childhood situations, mental health
13 issues that may not excuse the crime but may
14 give some reason to explain the action. You
15 would want to hear all of that, too, would you
16 not?

17 A. Yes, sir.

18 Q. And you would be able to give meaningful
19 consideration to that, as well as the
20 aggravating circumstances?

21 A. Yes, sir.

22 Q. It is my understanding that as a type
23 three juror that you believe that you could,
24 after hearing all the instruction and know
25 that you aren't required to bring back a death

1 sentence, nor are you required to bring back
2 life imprisonment without the possibility of
3 parole unless you don't find an aggravating
4 circumstance, then you are, but if you do find
5 it's an option, for you. You can bring back
6 life even if you find aggravating
7 circumstances, for no reason whatsoever if you
8 want to.

9 It is my understanding that you would be
10 in a position and you could, fairly and
11 impartially at that time, consider all the
12 evidence, decide what you believe to be the
13 truth, and if certain circumstances were
14 present and established beyond a reasonable
15 doubt, you could consistent with that
16 instruction return a death sentence.

17 A. Yes, sir.

18 Q. Likewise, even though you could return a
19 death sentence, you could impose a life
20 imprisonment without the possibility of parole
21 sentence instead?

22 A. Yes, sir.

23 Q. And you wouldn't know which one until you
24 had heard it all?

25 A. Yes, sir.

1 Q. Let's look at this case for just a
2 moment. As I mentioned on Friday, Mr.
3 Dickerson has been accused of a number of
4 criminal offenses. I told you that he is
5 presumed innocent.

6 A. (Affirmative nod).

7 Q. You didn't have any problem with that
8 presumption of innocence, as I understand it?

9 A. No, sir.

10 Q. That means that you have to actively
11 presume that he is innocent.

12 A. (Affirmative nod).

13 Q. That today, as you see him, he is
14 innocent of these charges as far as you are
15 concerned; is that true?

16 A. Yes, sir.

17 Q. That would be your position -- that would
18 have to be your position if you were selected
19 on the jury throughout the trial and could
20 only change when you as a member of the jury
21 were instructed to consider the evidence in
22 the first phase and make a decision whether
23 you were convinced beyond a reasonable doubt
24 that he committed one or more of these
25 offenses.

1 Then after viewing the evidence and
2 applying the law you were firmly convinced,
3 beyond a reasonable doubt, then you would
4 return -- I assume would change your position
5 and be able to return a verdict of guilty. Is
6 that true?

7 A. Yes, sir.

8 Q. But until then you would maintain that
9 position of him being innocent?

10 A. Yes, sir.

11 Q. Do you understand that he has no burden
12 to prove anything?

13 A. Yes, sir.

14 Q. The only person that has to prove
15 anything is the State?

16 A. I understand.

17 Q. You would also follow the court's
18 instruction and set aside any personal
19 feelings that you may have about what the law
20 is or should be and take it as I say that it
21 is?

22 A. Yes, sir.

23 Q. And apply that fairly?

24 A. Yes, sir.

25 THE COURT: Thank you, Mr. Suggs.

1 Answer any questions that the attorneys may
2 have.

3 VOIR DIRE EXAMINATION

4 BY RUTLEDGE DURANT:

5 Q. Mr. Suggs, my name is Rutledge Durant. I
6 am an assistant solicitor here in Charleston.
7 I will be presenting evidence in this case
8 along with the prosecution, which is Scarlet
9 Wilson, the elected Solicitor, and Bruce
10 Durant, the Chief Deputy Solicitor.

11 Based on your responses so far, we don't
12 have any questions for you. Thank you, sir.

13 VOIR DIRE EXAMINATION

14 BY MR. BLOOM:

15 Q. Mr. Suggs, my name is Jeff Bloom and
16 along with Andrew Carroll, who is out of the
17 courtroom at the moment, we represent William
18 Dickerson. I just have a handful of
19 questions.

20 Could you tell me just generally what
21 your opinion is about the death penalty? Not
22 about this case, but just generally.

23 A. Well, you know, I haven't thought about
24 that. That is not something that you think
25 about every day. It's a very serious -- you

1 know, something serious to think about. I
2 wouldn't wish it on anybody but for
3 circumstances sake you have to make the best
4 judgment, apply it to the case and the burden
5 of proof.

6 Q. Fair enough, sir. You understood Judge
7 Dennis when he talked about jurors making a
8 judgment between the ultimate punishment and
9 life without parole that that is totally up to
10 you, that there is no law, no rule that
11 requires the death penalty, that he would
12 never order it. You understood that?

13 A. Yes, sir.

14 Q. And the law calls that juror's judgment
15 an individualized, reasoned moral judgment.
16 Can you accept that?

17 A. Yes, sir.

18 Q. All right. After you've heard all the
19 evidence, all the circumstances, the law from
20 Judge Dennis, and you and the other jurors had
21 discussed, debated it, you'd listened to them,
22 they had listened to you, if eleven jurors
23 were voting one way and you voted another way,
24 would you be able to hang onto that
25 individualized, reasoned moral judgment or

1 would you give up your vote just to kind of go
2 along to get along?

3 A. No, I couldn't give up my -- no.

4 Q. You didn't strike me as that kind of
5 person but you know that I need to ask.

6 A. Okay.

7 Q. You'd ask that those other jurors respect
8 your vote?

9 A. Yes, sir.

10 Q. Just as you would respect their vote?

11 A. Yes, sir.

12 MR. BLOOM: Thank you.

13 THE COURT: Anything else?

14 RUTLEDGE DURANT: Nothing, Your
15 Honor.

16 THE COURT: Thank you very much.

17 I find that you are qualified to serve, Mr.
18 Suggs, and ask that you return tomorrow
19 morning at 9:30. We are going to select a
20 jury at that time. When I say qualified to
21 serve, I mean qualified to serve as a member
22 of the panel from which we will select the
23 jury.

24 JUROR NUMBER 304: Okay.

25 THE COURT: So come tomorrow

1 prepared to serve on the jury because we will
2 start into the case once that jury has been
3 selected, and you'll know that hopefully by
4 about 10:00 o'clock or so.

5 Until then and until you have been
6 dismissed from this case, please remember that
7 you still are not at liberty to discuss this
8 case with anyone or permit anyone to talk with
9 you about it. Also, please continue not to
10 watch any news programs about it or read any
11 news accounts. Have a great evening and I
12 will see you in the morning.

13 JUROR NUMBER 304: Yes, sir. Thank
14 you all very much.

15 THE COURT: Thank you very much,
16 sir. Thank you for your patience, too.

17 (JUROR NUMBER 304 EXITS COURTROOM)

18 THE COURT: We've got?

19 COURT REPORTER: Forty-three.

20 THE COURT: Right on the money.
21 Forty-three.

22 BRUCE DURANT: Hit it right on
23 the nose.

24 THE COURT: All right. Anything
25 from the State before we recess?

1 SOLICITOR WILSON: No, sir.

2 THE COURT: From the defense?

3 MR. BLOOM: No, sir.

4 THE COURT: I'll see you in the
5 morning. Let's gather here about 9:00. Have
6 a good evening, thank you all for your
7 patience, see you in the morning.

8 (COURT IN RECESS)

9 (TRANSCRIPT CONTINUED NEXT PAGE)

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1 APRIL 23, 2009

9:00 A.M.

2

3

(DEFENDANT PRESENT)

4

BENCH CONFERENCE:

5

THE COURT: Good morning. My

6

plan is for me -- we are going to talk to --

7

there have been two jurors that have called in

8

and then you'all want me to talk to Ms.

9

Prioleau, as I understand.

10

BRUCE DURANT: Very briefly.

11

THE COURT: No problem. What

12

I would propose that we do is that we bring

13

those jurors over before we start bringing the

14

panel over. The panel is next-door. I am

15

going to bring those over and have them stand

16

-- have them come in one at a time and there

17

-- there is no need to have it done in open

18

court. I don't believe that you'all have any

19

problem with that.

20

SOLICITOR WILSON: Who called?

21

THE COURT: There was one,

22

that was Denode Heyward, and then Janet Bergen

23

who called. I don't know what it is about.

24

Then we are going to select the

25

jury. What we are going to do with the jury

1 first -- once that is selected, then I am
2 going to send -- if we get sixteen, then I am
3 going to send those back to their jury room.

4 Then I am going to excuse the panel,
5 because I want to speak to them.

6 Then I will be happy to take up --
7 while they are going back, any objection --
8 Don (Michele) wants to go over with them the
9 procedure for parking, he's got little juror
10 cards that they are going to need to use and
11 he needs to explain that to them, and then
12 talk with them about during the lunch hour
13 moving their cars so that they can come to a
14 secured area here. They are going to be in a
15 secured area the entire time. Any objection
16 to the clerk talking to them during that
17 period of time?

18 SOLICITOR WILSON: No, sir.

19 MR. BLOOM: (Negative
20 gesture).

21 THE COURT: So that will
22 accomplish that. So that when we bring them
23 back, we will be prepared to do openings. We
24 can take up any matters such as this then if
25 you want to address that.

1 SOLICITOR WILSON: One other
2 thing that I discussed briefly with Jeff
3 yesterday, we have -- we might be adding a
4 witness in the penalty phase. If you could
5 ask the panel.

6 THE COURT: Sure.

7 SOLICITOR WILSON: I don't know
8 that we are but just to be on the safe side.

9 MR. BLOOM: -What was that
10 name?

11 THE COURT: Marvin, also known
12 as "Nick", Hancock?

13 SOLICITOR WILSON: Yes, sir.

14 BRUCE DURANT: His name is
15 Marvin Hancock but he goes by "Nick" most of
16 the time.

17 MR. BLOOM: Who is he?

18 BRUCE DURANT: He is the
19 custodian of the jail, at the jail.

20 MR. BLOOM: Okay.

21 SOLICITOR WILSON: I am going to
22 run to the restroom.

23 THE COURT: We will get you a
24 copy of ---

25 MR. BLOOM: If you would.

1 THE COURT: Give us just a
2 moment and we'll bring in -- see who is ready.

3 (BENCH CONFERENCE CONCLUDED)

4 DEPUTY: Your Honor?

5 THE COURT: Sir?

6 DEPUTY: One of the media is
7 requesting whether they can be here for jury
8 selection.

9 THE COURT: There is no reason for
10 them to be in here. They can be in here to
11 witness it but I don't want any camera in here
12 for the jury selection. There is nothing to
13 show.

14 DEPUTY: Yes, sir.

15 THE COURT: All right. All the
16 lawyers are here. Let the record reflect that
17 Mr. Dickerson is present. Good morning, Mr.
18 Dickerson.

19 DEFENDANT: Good morning.

20 THE COURT: Thank you all again --
21 I know everybody is anxious to get started.
22 We're having a few last minute things but that
23 is not unusual or uncommon and I'm confident
24 that they will work (out) fine.

25 Let me ask now -- we know that we

1 are starting on Thursday, start really
2 Thursday afternoon, the reason I am asking --
3 and I am going to make this a Court's Exhibit
4 to ---

5 COURT REPORTER: Court's Exhibit 8.

6 THE COURT: I have received this
7 communication, just a few minutes ago, from
8 Ms. Ferguson. It is a matter that she
9 discussed with me about a trip that was
10 planned for May 6th, which is Wednesday two
11 weeks from yesterday. Best guess? Are we
12 going to be finished?

13 SOLICITOR WILSON: (Affirmative nod),
14 I think by then.

15 MR. BLOOM: What is the date?

16 THE COURT: May the 6th.
17 Wednesday.

18 SOLICITOR WILSON: Wednesday week.

19 THE COURT: A week from next
20 Wednesday.

21 MR. BLOOM: Yeah, that's hard to
22 say. We may still be in the sentencing phase.
23 It depends on the State, how much they are
24 putting up in the sentencing.

25 THE COURT: Well, let me ask

1 you'all a question. Have you'all discussed
2 about the -- because what I am going to tell
3 the jury, I've said that I am going to let
4 them pick the time. The time is going to be a
5 minimum of 6:00 o'clock. We are going to work
6 to 6:00 every day, at least.

7 Now if they want to work a little
8 longer, I am willing to do that. I know you
9 all would like not to but if they want to work
10 a little bit longer, that's fine with me, too.

11 But I am going to set the time at
12 6:00, starting at 9:30 in the morning until
13 6:00. I'll let them make the call on
14 Saturday. My guess is that they probably are
15 not going to want to work on Saturday. I've
16 got my fingers crossed. I would like not to
17 work on Saturday but -- are you going to
18 require all the chain testimony?

19 MR. BLOOM: No, sir. We resolved
20 that yesterday.

21 THE COURT: So that should shorten
22 ---

23 BRUCE DURANT: That will shorten
24 us considerably, Your Honor.

25 THE COURT: Insofar as the first

1 phase is concerned?

2 BRUCE DURANT: Right.

3 THE COURT: Yes, that's the key to
4 me. If we can get started in the second, if
5 there is a second phase, I don't know that yet
6 at this point. I think we will, I am going to
7 tell her ---

8 MR. BLOOM: This is Juror Andrea
9 Ferguson?

10 THE COURT: Yes.

11 MR. BLOOM: Just to be candid with
12 the court, we don't intend to use many of our
13 alternate strikes.

14 THE COURT: You don't think that we
15 will get to her.

16 MR. BLOOM: I don't think we'll get
17 to her.

18 THE COURT: Then I am just going to
19 not respond to that at this point. I will
20 just tell her -- well, I will. I will tell
21 her that we've talked about it and we will
22 address it after the strike. Or the better
23 thing, yet, just don't respond to it. Okay.
24 I will make it Court's Exhibit 7 ---

25 COURT REPORTER: Court's Exhibit 8.

1 (SO ENTERED AS COURT'S EXHIBIT 8)

2 THE COURT: Thank you. She's
3 attached a booking that she has arranged, but
4 I don't think anybody is challenging that she
5 has a trip planned. Okay.

6 I am going to take the first two and
7 then I want to chat with you all again so that
8 I can get in my mind -- I think that I
9 understand about Ms. Prioleau before we bring
10 them over.

11 Bring them through the hall, we are
12 not going to bring them through the outside.
13 I am going to take it here in front of Ms.
14 Garrison. Bring in Denode Heyward, first.

15 SOLICITOR WILSON: Do you want us up
16 there?

17 THE COURT: Sure. Does Mr.
18 Dickerson have any problem with you'all coming
19 up without ---

20 MR. BLOOM: No, sir.

21 THE COURT: Thank you, Mr.
22 Dickerson. If he wants to come, I'll
23 certainly -- that would be fine. The first
24 one is Denode Heyward, Juror Number 133.

25 (JUROR NUMBER 133 ENTERS COURTROOM)

1 BENCH CONFERENCE:

2 THE COURT: Good morning, Mr.
3 Heyward. Come on around. I'm going to let
4 you stand right here so that we can talk to
5 our court reporter. Good morning, sir. How
6 are you?

7 JUROR NUMBER 133: Okay.
8 Fine.

9 THE COURT: You called the
10 court's -- you called the clerks' office
11 yesterday and said that you had a reason to
12 talk with the court. What is that, sir?

13 JUROR NUMBER 133: Yeah, I don't
14 think I could be on this trial. I just don't
15 feel safe because I'm in that area up there
16 where this happened a lot.

17 THE COURT: Why?

18 MR. BLOOM: Your Honor, I
19 can't hear him.

20 THE COURT: Stand over here.

21 JUROR NUMBER 133: You said you
22 don't feel safe because you're in that area a
23 lot?

24 JUROR NUMBER 133: Yes.

25 THE COURT: Do you feel that