

VOLUME EIGHT 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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 HAVE BEEN TRANSPORTED TO THE COURT.**

1 the sole judges of the facts.

2 Remember something else that we
3 talked about, and we're talking about the
4 notes. And, Mr. Partee, thank you very much
5 for your notes, and those are yours. Those
6 are to assist you. If anyone else has any
7 notes, they're your notes for the purpose
8 solely of assisting you in your deliberations.
9 They're not the record of this case. Remember
10 that Ms. Garrison has that and if during the
11 deliberations you have any disagreement about
12 what a witness said or didn't say, we can
13 replay that testimony for you. Let us know if
14 that occasion should arise.

15 If there are any other questions you
16 have, if you will simply write them out. If
17 you will use a whole sheet of paper, I would
18 appreciate it. We'll make sure that you have
19 something other than just your note pad so
20 that he can continue to use his note pad.
21 We'll get you some additional writing
22 material.

23 And if that be the case, I would
24 simply ask that you write it out, sign your
25 name, as you've been doing, and date it for

1 me. Sometimes I can respond to you by just
2 writing a response and then sending it back.
3 Sometimes we'll bring you into the courtroom.

4 But please remember that until you
5 receive the exhibits, then and only then, can
6 you begin your deliberations. Once the
7 deliberations start, if at any time a juror
8 leaves the table for any reason, all you must
9 stop deliberating until all twelve of you are
10 together again. Other than that, Ladies and
11 Gentlemen, you may proceed as you see fit and
12 proper.

13 Let me thank you now again for your
14 attention throughout. Thank you for your
15 attention to my remarks. Please retire to
16 your jury room and await the exhibits before
17 you commence your deliberations.

18 Our alternate jurors, they will take
19 you to your jury room now. Thank you.

20 (JURY EXITS @ 1:11 P.M.)

21 THE COURT: Exceptions or additions
22 from the State?

23 SOLICITOR WILSON: No, sir.

24 THE COURT: Exceptions or additions
25 from the defendant?

1 MR. BLOOM: Your Honor, we'd simply
2 renew our Motion for accessory before the fact
3 and accessory after the fact be charged,
4 pursuant to our prior argument, as well as
5 including the Fifth, Eighth and Fourteenth
6 Amendments and due process in connection with
7 those.

8 THE COURT: Thank you so much.
9 I've ruled previously on that. We will
10 provide you each with a copy. I've got a
11 couple of changes where I deleted some words
12 in my charge and I need to clean it up a
13 little bit.

14 SOLICITOR WILSON: I am very glad
15 you did that.

16 THE COURT: Well, hopefully that
17 will help ---

18 SOLICITOR WILSON: They do that
19 all the time in Federal courts and it is
20 wonderful.

21 THE COURT: I think it's something
22 that -- I know we talked about it before.
23 When I went to Reno in 1994 to the judges'
24 school for the first time, I didn't know the
25 practices of other states. I found that most

1 states do it. But it followed a two-and-a-
2 half or three-hour session on types of
3 learning. And I thought, you know, if you're
4 visual and you're sitting there trying to
5 comprehend that, you're lost -- I might as
6 well be talking to the wall.

7 SOLICITOR WILSON: Thank you for
8 doing that.

9 THE COURT: But I hope it will be
10 helpful to everyone. Thank you all. It's
11 been difficult.

12 COURT REPORTER: Judge, I'll mark
13 your charge as Court's Exhibit 20.

14 THE COURT: That's good, thank you.

15 (SO ENTERED AS COURT'S EXHIBIT 20)

16 COURT REPORTER: Counsel, please
17 come forward and approve exhibits.

18 (REVIEW OF EXHIBITS)

19 COURT REPORTER: State agrees?

20 BRUCE DURANT: Yes, ma'am, I just
21 wanted to add those three.

22 COURT REPORTER: Mr. Bloom, defense
23 agrees?

24 MR. BLOOM: Yes, ma'am.

25 THE COURT: Any objections to the

1 bailiffs -- I've told them that they don't
2 have to write a note every time that they want
3 a smoke break. Any objection to that?

4 BRUCE DURANT: No.

5 MR. BLOOM: No, sir.

6 THE COURT: Thank you.

7 COURT REPORTER: Mr. Williams
8 (bailiff), please just let me know the times
9 when they go out and when they come back
10 should they take a break.

11 BAILIFF: Yes, ma'am.

12 COURT REPORTER: Thank you.

13 (EXHIBITS SUBMITTED TO JURY
14 JURY IN DELIBERATION @ 1:35 P.M.)
15 (NOTIFIED OF QUESTION @ 3:30 P.M.)
16 (SO ENTERED AS COURT'S EXHIBIT 21)

17 THE COURT: We have a note ---

18 MR. BLOOM: We don't have the
19 defendant yet, Judge.

20 THE COURT: That's fine, I'm going
21 to read it again and I'll share it when he
22 gets here.

23 (DEFENDANT PRESENT)

24 THE COURT: I'm just going to tell
25 you'all. They want to hear the closing

1 arguments again. But I'm not going to do
2 that. They're not evidence. There's no
3 reason to do that, I don't believe. I don't
4 think I've ever had that request. Maybe
5 you'all have. I've never heard of it.

6 The other is (reading), "For the
7 State's Exhibits, do we have any way to
8 identify what we are looking at?"

9 Well, 'What you're looking at is what
10 you're looking at.' What is it that they want
11 to identify? I'm going to have to inquire. I
12 don't know what they mean "identify." If they
13 want to replay the testimony of the person
14 who's introducing that and who's describing
15 that, then fine, we can bring that in. But
16 I'm not sure what they mean, so I'm going to
17 inquire of him as to what they're talking
18 about. I want to say, 'it is what you see,
19 whatever it is.' Maybe they need somebody to
20 relate what they're looking at to some
21 testimony.

22 BRUCE DURANT: I think it's maybe
23 they just want a list.

24 THE COURT: And if they want that,
25 I'll leave that to you all. We can provide a

1 list, something that basically says what they
2 are. But I'll defer to you'all. I'm not
3 going to insist that that be done. I don't
4 know that that is necessary.

5 Why don't you show this to Mr.
6 Dickerson, Court's Exhibit 21? The other two
7 questions I addressed were the smoking and the
8 telephone, making telephone calls to loved
9 ones.

10 We need to -- I'm going to need to
11 inquire of the jury as to whether they believe
12 they're going to be able to complete their
13 deliberations today for the reason that we
14 have made arrangements for the hotel. We have
15 to let them know. They're waiting to hear
16 from us by 4:00 o'clock or we're going to have
17 to pay for it. So there's no other way other
18 than to inquire of them, to find out whether
19 they believe they will be able to complete.
20 Because I can't wait until they say at 7:00 or
21 8:00 o'clock 'we want to go to a motel, or
22 we're going to recess tonight' and then I have
23 to put them somewhere because then we won't
24 have it. And I don't want to cost the County
25 unless they indicate they may need it. Now,

1 I'm not going to hold them to that, obviously,
2 but I've got to make it available.

3 SOLICITOR WILSON: Do they even
4 know that's an option?

5 THE COURT: No, and I don't want to
6 do that. But I'm going to tell them that
7 that's what we're going to do. My plan is
8 probably I'm going to let them go home and get
9 whatever they need for tonight and report to
10 the motel. That's the plan. I'm going to
11 trust them to do that. I'm not going to get
12 the Sheriff and make them go to their houses.
13 You can put your objections on that. But I'm
14 going to let them go back to the hotel and
15 drive their cars there, so they can drive
16 their cars here tomorrow.

17 Are they back from smoking yet, Mr.
18 Brown? Do you know?

19 BAILIFF: I'll check.

20 THE COURT: Any objection to my --
21 Don is sitting there in the hall with a DVD
22 player. We think the DVD player may play that
23 from a sound standpoint. Are they back?

24 BAILIFF: Yes, sir.

25 THE COURT: I'm going to ask them

1 to let us have one of the CD's so we can be
2 checking that. Any objection from anyone?

3 SOLICITOR WILSON: No objection.

4 MR. BLOOM: No, sir.

5 THE COURT: The DVD, it doesn't
6 play it. So the only thing we can do is play
7 it in here or ---

8 SOLICITOR WILSON: I think you can
9 take the computer back.

10 THE COURT: Is there anything on
11 the computer?

12 BRUCE DURANT: It's a brand new
13 computer, so it's got no documents on it or
14 anything.

15 THE COURT: Any objection to them
16 having the computer?

17 MR. BLOOM: Let us check it out.

18 THE COURT: Check it because we
19 need to have them be able to do that. We'll
20 give you a chance to look at it. Let's bring
21 in the jury at this point.

22 BAILIFF: Do you want the
23 alternates?

24 THE COURT: Yes, alternates too.

25 (JURY IN @ 3:45 P.M.)

1 THE BAILIFF: Jury is all present.

2 THE COURT: Thank you very much,
3 Ladies and Gentlemen. Be seated, please. Mr.
4 Partee, I have what's now Court's Exhibit 21,
5 and a couple of the questions we've already
6 taken care of.

7 And I have an understanding -- Mr.
8 Partee, when the jury wants to take a smoke
9 break, you don't have to write me a note about
10 that. You just simply advise the bailiff that
11 the jurors need to smoke, and you may do so.

12 The first question is you'd like to
13 hear the closing statements from both parties.
14 That's a very interesting request, but we're
15 not going to do that. I would remind you that
16 the closing remarks of the attorneys as well
17 as Mr. Dickerson are not evidence. You're
18 considering evidence now, that's what you're
19 to evaluate. That was to help you analyze the
20 evidence, and that may be helpful to you. You
21 all can use your collective judgments, because
22 we're not going to redo the closing arguments.

23 The CD's -- we have -- we've been
24 trying to find -- because the CD is a Windows
25 CD and obviously it's going to take a

1 computer. That's a problem. We can play in
2 the courtroom, but we're going to try to find
3 a way to get you so that you can play it in
4 the confines of your jury room and listen to
5 it. But in the event that we can't, we'll
6 just bring you back and play the CD as many
7 times as you need to have them played. It's
8 no problem. But that's the way we will
9 accomplish that.

10 The last one is, 'The State's
11 Exhibits, do we have any way to identify what
12 we're looking at?' I need some help.
13 Obviously, what you're looking at is what it
14 is. But I'm not sure -- if you're asking, if
15 you want what somebody has testified about
16 that, then you're going to have to help us
17 giving a question of who the witness was and
18 we can replay that testimony concerning that
19 exhibit. If it's a summary of the exhibits
20 you have, that's not in evidence.

21 THE FOREMAN: Would you like me to

22 ---

23 THE COURT: Yes, sir.

24 THE FOREMAN: Really, what we're
25 requesting is typing like a picture of, for

1 instance, a pair of jeans. We were really
2 wondering, like, whose jeans were they?

3 THE COURT: That's what I said.
4 That goes to your independent recollection.
5 If we can't, then we'll simply have to go back
6 through and find the witness who is testifying
7 about that and play that for you, if that
8 becomes significant as to whose jeans it was.

9 THE FOREMAN: All right.

10 THE COURT: I don't want you to
11 share what -- you've answered my question. If
12 it's whose item of clothing, then what we'll
13 have to do is find that witness that testified
14 about that exhibit. And in that regard, Ms.
15 Garrison, do you have a way to find that if we
16 have the exhibit number? Would you be able to
17 find that?

18 COURT REPORTER: Yes, sir.

19 THE COURT: So what you would do is
20 you would just simply take the exhibit number
21 that you have -- you can put that in and we
22 can locate that exhibit number in the record
23 and then we can replay the testimony
24 concerning that exhibit number. That would be
25 one way of addressing your concern.

1 THE FOREMAN: That'd be great.

2 THE COURT: So I need you to give
3 me more information, which specific exhibit
4 you're talking about.

5 THE FOREMAN: Not a problem.

6 THE COURT: Other than that -- I
7 think that addresses all the questions, I
8 think. So if you want to return and continue
9 your deliberations. Send us what the exhibits
10 are, the list, and we'll take care of it and
11 try to organize the record to play that for
12 you.

13 THE FOREMAN: Thank you.

14 THE COURT: Thank you, Mr. Partee.
15 Thank you, Ladies and Gentlemen. You may
16 continue and resume your deliberations.

17 (JURY OUT @ 3:55 P.M.)

18 THE COURT: Thank you. Please be
19 seated. Any exceptions or additions from the
20 State to the Court's remarks?

21 SOLICITOR WILSON: No, sir, Your
22 Honor. I guess we can take it as it comes.
23 The problem that I have is if they have a
24 question about an item of clothing or an
25 exhibit. Not every witness who referred to an

1 item referred to an exhibit. I have some
2 concerns about that.

3 THE COURT: I can't go so far as
4 ask what it is they need to know about that.
5 I think that invades their province. I'll
6 simply start playing testimony as long as --
7 the good thing about referencing -- and we're
8 finding out in addition to appellate work,
9 it's probably a good idea to always identify
10 the document by referencing in the record when
11 you're talking about it instead of "this" or
12 "that." Fortunately, you all did that. So we
13 can find that.

14 SOLICITOR WILSON: I mean, I
15 don't know what ---

16 THE COURT: We don't know what they
17 want. They said identifying whose they were.
18 When that exhibit was introduced, somebody
19 testified to what that document was. That's
20 the first step to me, Solicitor. I appreciate
21 there may be some other concerns, but that's
22 the first step. And how it goes from there,
23 I'll leave it to them.

24 But your exception is noted in that
25 regard. I decline to inquire any further from

1 the jury, because I believe we would be going
2 too far to talk about what they're
3 deliberating and their concerns about
4 something. And we're not going to do that.

5 Any exceptions or additions from the
6 defendant?

7 MR. BLOOM: None whatsoever, Your
8 Honor.

9 THE COURT: Thank you very much
10 about the hotel. When I went back out,
11 Colonel Ruger had called, and I think we
12 bought some time for me. That's good.
13 Because I said, "Give me till 6:00." At 6:00,
14 I don't have a problem then making any inquiry
15 because they will have then been deliberating
16 about four hours or so. So that'll give me a
17 reason then to ask them about it.

18 Have you'all looked at the computer?

19 MR. BLOOM: We're about to do that.

20 THE COURT: If you'll check that
21 and just see. That would be the greatest
22 thing, if the computer can go back.

23 MR. BLOOM: Judge, if I may, while
24 we're about to do that, just note our
25 objection to sequestering the jury during

1 deliberations. I think we may have discussed
2 that at one point during an in-chambers but we
3 object to doing that.

4 THE COURT: I appreciate that. The
5 problem or concern I have is -- if you can
6 show me the Rule that allows me to let them go
7 home, I'll be happy to do that.
8 Notwithstanding the opposition, the problem I
9 have is I don't think the Rule allows it.
10 That's my concern.

11 Okay, we have another note from the
12 jury.

13 COURT REPORTER: Court's Exhibit 22.
14 (SO ENTERED AS COURT'S EXHIBIT 22)

15 THE COURT: (Reading): "Work is
16 continuously asking when I will be returning
17 to work. It is really becoming an issue. I
18 got the Court to issue a letter for their
19 records, but they keep asking when I am coming
20 back. What is the professional way to pursue
21 this matter?"

22 BRUCE DURANT: I have a
23 suggestion.

24 THE COURT: What would be your
25 suggestion?

1 BRUCE DURANT: Let him go back to
2 work and put somebody else on.

3 THE COURT: Well, I'm beginning to
4 be concerned that this -- it seems to be his
5 focal point seems to be more towards work than
6 it does towards this case. That's my concern.
7 I need to bring him in and inquire, I believe.

8 SOLICITOR WILSON: Is the
9 alternate sitting a random draw?

10 THE COURT: Yes. What is your
11 position? What's the State's position
12 concerning this problem?

13 SOLICITOR WILSON: I'm fine with
14 the substitution. It does seem to be a
15 recurring pattern. I don't remember during
16 the qualification that it was a problem.

17 THE COURT: He never really said
18 anything. The comments really started after
19 the fact, because we started having to write
20 letters for him. You called his employer?
21 No, you called Ms. Watson's. We haven't had
22 any problem with that one. But we had to get
23 a special letter for him.

24 CLERK, MIKE CALLAHAN: Yes, sir.

25 SOLICITOR WILSON: My other

1 concern, although we aren't there yet, is if
2 we were to make it to the next phase and he,
3 in particular, has no idea that's coming.

4 THE COURT: Well, he should have an
5 idea.

6 SOLICITOR WILSON: I don't know
7 if they know if it's going to take two hours
8 or three hours or whatever. And he really is
9 going to be ---

10 THE COURT: Yeah, but that's what
11 you have alternates for.

12 SOLICITOR WILSON: Right.

13 THE COURT: But my concern right
14 now is that this person's going to be involved
15 in deliberations right now. We've started and
16 they've been going awhile. We can restart the
17 deliberations and put the alternate on. The
18 longer we go, the more problems we have, in my
19 opinion.

20 Are you'all comfortable with the
21 alternates? Ms. Earhardt is the one that had
22 the grandfather that was ill.

23 MR. BLOOM: No, we never got to
24 her.

25 THE COURT: She wasn't the one.

1 Okay.

2 The Clerk can take it (DVD exhibit)
3 back and start it for them. If you don't have
4 any objection to that instrument being used to
5 play it.

6 MR. BLOOM: We don't, Your Honor.
7 I have to acknowledge I'm not real computer
8 proficient. It appears that all programs and
9 other files have been deleted from it. It can
10 just give a very strong instruction that the
11 computer is supposed to be clean of any other
12 materials, so the jury will know that and if
13 anything pops up that they should notify the
14 Clerk.

15 THE COURT: That'll give us a
16 chance. I want to bring Mr. Partee in and
17 chat with him concerning the extent of this
18 problem. I'm certainly not going to get in
19 the business of advising him what to do. I'm
20 sure you all don't want me to do that.

21 SOLICITOR WILSON: No, sir.

22 THE COURT: Thank you. And while
23 we're doing that maybe we can get the CD from
24 them as well. So let's ask Mr. Partee to come
25 in.

1 (JUROR NUMBER 386, PRESIDING JUROR

2 ENTERS COURTROOM)

3 THE COURT: Approach, please.

4 BENCH CONFERENCE:

5 THE COURT: Court's Exhibit 22.

6 Mr. Partee, thank you very much. Apparently,
7 in having conversations with your work they
8 are insisting -- as we told you when we picked
9 you, it is a multiweek ---

10 JUROR NUMBER 386: Yes, sir.

11 And that's my understanding.

12 THE COURT: I understand. To
13 answer your question, you'll be finished when
14 you're finished.

15 JUROR NUMBER 386: And that
16 was on the letter.

17 THE COURT: I understand. So
18 what else do we need? The concern that I have
19 is that this is affecting your ability to be a
20 juror.

21 JUROR NUMBER 386: Uh, no. I
22 would say ---

23 THE COURT: We're not going to
24 be able to help you any more than we've helped
25 you insofar as they are concerned. You're

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

1 going to have to just tell them this is what
2 it is. There's recourse that you have if they
3 take actions against you. As I told a juror,
4 there's some law. I could tell you that, but
5 I can't tell you because I'm prohibited from
6 giving legal advice. But there's something
7 you can do should something happen. But I'm
8 telling you anything other than my concern is
9 this -- if this influences or affects your
10 ability to focus on this, we need to know
11 that. If it doesn't, then that's fine.

12 JUROR NUMBER 386: No, sir.

13 THE COURT: It doesn't?

14 JUROR NUMBER 386: No, sir.

15 Like I say, I tried to call them last night.
16 They didn't answer. You know, I'm trying to
17 alleviate a ---

18 THE COURT: I would just tell
19 you that you just need to tell them that
20 you'll be finished -- and not trying to be a
21 smart-aleck answer, but you'll be finished
22 when you're finished.

23 JUROR NUMBER 386: Okay.

24 THE COURT: That's what you can
25 tell them. But that's as far as we can help

1 you. Thank you, sir.

2 JUROR NUMBER 386: Thank you.

3 (BENCH CONFERENCE CONCLUDED)

4 (JUROR NUMBER 386 EXITS COURTROOM)

5 THE COURT: Any exceptions or
6 additions to Mr. Partee from the State?

7 SOLICITOR WILSON: No, sir.

8 THE COURT: Any from the defendant?

9 MR. BLOOM: No, sir.

10 THE COURT: Thank you. Hopefully
11 that addresses his concerns. Bring in the
12 jury.

13 (JURY IN)

14 THE COURT: Thank you, Ladies and
15 Gentlemen. Please be seated. Thank you. I
16 wanted to bring you in. We're going to send a
17 computer back. Mr. Callahan will come back
18 and demonstrate that the computer will play
19 the CD for you. The reason I wanted to bring
20 you in is the computer, we believe
21 everything's been purged from the computer and
22 there's nothing else on it. But please know
23 that the only thing you can do with this
24 computer is listen to it. If anything pops up
25 on that computer screen while you're listening

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1 to it, you need to stop. You need to bring it
2 to our attention so that we can make note of
3 that. That was the reason, because obviously
4 we're putting something in that has -- may
5 have something on the disc.

6 I assume none of you have any
7 computer -- you don't have the techniques
8 about opening a disc, I assume. I guess you
9 have to have some equipment to accomplish that
10 anyway. I say that totally in jest. You know
11 that you cannot consider anything other than
12 that CD that you're listening to.

13 And it's very simple. When it comes
14 up I think it says "play". You mash "play"
15 and it plays it. And you can play it as many
16 times as you like. But Mr. Callahan will be
17 in just shortly to go over that with you.

18 Thank you very much. You may retire
19 to your jury room and continue your
20 deliberations.

21 (JURY EXITS)

22 THE COURT: Any exceptions or
23 additions from the State?

24 SOLICITOR WILSON: No, sir.

25 THE COURT: Any exceptions or

1 additions from defendant?

2 MR. BLOOM: Thank you all. We'll
3 be at ease until the next note.

4 (JURY IN DELIBERATION)

5 (NOTIFIED OF VERDICT @ 5:20 P.M.)

6 (SO ENTERED AS COURT'S EXHIBIT 30)

7 (DEFENDANT PRESENT)

8 THE COURT: Let the record reflect
9 that Mr. Dickerson is present. I'm advised
10 that the jury has reached a verdict. Is the
11 State ready to receive the verdict?

12 SOLICITOR WILSON: Yes, sir.

13 THE COURT: Is the defendant ready
14 to receive the verdict?

15 MR. CARROLL: Yes, sir.

16 THE COURT: Ladies and gentlemen,
17 those of you that are here, it's been said
18 numerous times during this proceeding -- Mr.
19 Dickerson said it this morning and I think
20 very appropriately said it -- it's been tough
21 on both sides, it really has. I understand,
22 to some extent, the emotion; certainly I
23 can't put myself in your positions because
24 I've never sat where you're sitting. I'm sure
25 you would join in that prayer that you hope

1 nobody ever sits where you're having to sit,
2 either side of this.

3 But we're here. And this process is
4 a process in which I take great pride in being
5 a part of it. It's a process that I think
6 separates in so many ways this country from
7 the rest of the world. And it's one that I'm
8 proud as -- as I shook the hands of the
9 officers of this Court and Mr. Dickerson. I
10 did that intentionally, Mr. Dickerson. You
11 certainly -- we've talked about this and you
12 have honored this procedure in every respect,
13 sir, and I thank you for that. And I thank
14 your attorneys for their professionalism and
15 the Solicitor's Office as well.

16 But we're going to continue that same
17 professionalism and decorum. When we publish
18 these verdicts I don't want any reaction --
19 none. If anybody feels that they can't honor
20 that, I respect you. I understand that. But
21 I'm going to ask you to leave now. Because if
22 there's any reaction, I will deal with that as
23 soon as the jury has been sent back to the
24 jury room.

25 So with that understanding, let's

1 bring in our jury. Thank you.

2 And just for your information, we
3 will poll the jury automatically, so you don't
4 have to request that. I'm going to go right
5 into polling the jury, whatever the verdict
6 may be.

7 (JURY ENTERS COURTROOM)

8 THE COURT: I've informed them the
9 alternates can sit in the jury box. Any
10 objection from anybody?

11 SOLICITOR WILSON: No, sir.

12 MR. BLOOM: No, sir.

13 BAILIFF: All present, Your
14 Honor.

15 THE COURT: Thank you, Mr. Robinson
16 (bailiff). Please be seated. Thank you.

17 Ladies and gentlemen, thank you very
18 much. Mr. Partee, thank you very much. I've
19 been informed the jury has reached a verdict.
20 Is that correct, sir?

21 THE FOREMAN: Yes, sir.

22 THE COURT: If you would pass the
23 verdict forms up, please.

24 THE FOREMAN: (Complies)

25 THE COURT: The verdict forms have

1 been properly completed. I would ask the
2 defendant to please rise, sir.

3 Mr. Callahan, if you would please publish the
4 verdicts, sir.

5 CLERK, MIKE CALLAHAN: Yes, Your
6 Honor. The verdict forms in the matter of the
7 State of South Carolina versus William Oliver
8 Dickerson, Defendant, (reading):

9 "As to Indictment Number 2008-GS-10-
10 2981, we, the jury, by unanimous consent find
11 the defendant guilty of kidnaping." Signed by
12 the presiding juror on April 30th, 2009.

13 Ladies and Gentlemen of the jury, if
14 this is your verdict, please raise your right
15 hands.

16 (UNANIMOUS AFFIRMATIVE RESPONSE BY JURORS)

17

18 CLERK, MIKE CALLAHAN: Please let
19 the record reflect that all twelve jurors
20 raised their right hands.

21 As to Indictment Number 2008-GS-10-
22 8884, (reading): "We, the jury, by unanimous
23 consent find the defendant guilty of criminal
24 sexual conduct, first degree." Signed by the
25 presiding juror on April 30th, 2009.

1 Ladies and Gentlemen of the jury, if
2 this is your verdict, please raise your right
3 hands.

4 (UNANIMOUS AFFIRMATIVE RESPONSE BY JURORS)

5 CLERK, MIKE CALLAHAN: Thank you.
6 Please let the record reflect that all twelve
7 jurors raised their right hands.

8 As to Indictment Number 2008-GS-10-
9 3142, (reading): "We, the jury, by unanimous
10 consent find the defendant guilty of murder."
11 Signed by the presiding juror on April 30th,
12 2009. Ladies and Gentlemen of the jury, if
13 this is your verdict, please raise your right
14 hands.

15 (UNANIMOUS AFFIRMATIVE RESPONSE BY
16 JURORS)

17 CLERK, MIKE CALLAHAN: Thank you.
18 Please let the record reflect that all twelve
19 jurors raised their right hands.

20 THE COURT: Ladies and Gentlemen,
21 at this point, while you've each responded to
22 Mr. Callahan's questions, and thank you very
23 much for doing so, Mr. Callahan will do what
24 we call polling the jury. He's going to call
25 your number and ask you whether that was your

1 verdict and if it is still your verdict. Just
2 follow his instructions.

3 CLERK, MIKE CALLAHAN: Juror Number
4 386, were those your verdict?

5 THE COURT: You can remain seated.

6 JUROR NUMBER 386: Yes, sir.

7 CLERK, MIKE CALLAHAN: Are they
8 still your verdicts?

9 JUROR NUMBER 386: Yes, sir.

10 CLERK, MIKE CALLAHAN: Juror Number
11 134, were those your verdicts?

12 JUROR NUMBER 134: Yes, sir.

13 CLERK, MIKE CALLAHAN: Are they
14 still your verdicts?

15 JUROR NUMBER 134: Yes, sir.

16 CLERK, MIKE CALLAHAN: Thank you.
17 Juror Number 209, were those your verdicts?

18 JUROR NUMBER 209: Yes, sir.

19 CLERK, MIKE CALLAHAN: Are they
20 still your verdicts?

21 JUROR NUMBER 209: Yes, sir.

22 CLERK, MIKE CALLAHAN: Thank you.
23 Juror Number 221, were those your verdicts?

24 JUROR NUMBER 221: Yes, sir.

25 CLERK, MIKE CALLAHAN: Are they

1 still your verdicts?

2 JUROR NUMBER 221: Yes, sir.

3 CLERK, MIKE CALLAHAN: Thank you.

4 Juror Number 227, were those your verdicts?

5 JUROR NUMBER 227: Yes, sir.

6 CLERK, MIKE CALLAHAN: Are they

7 still your verdicts?

8 JUROR NUMBER 227: Yes, sir.

9 CLERK, MIKE CALLAHAN: Thank you.

10 Juror Number 247, were those your verdicts?

11 JUROR NUMBER 247: Yes, sir.

12 CLERK, MIKE CALLAHAN: Are they

13 still your verdicts?

14 JUROR NUMBER 247: Yes, sir.

15 CLERK, MIKE CALLAHAN: Thank you.

16 Juror Number 256, were those your verdicts?

17 JUROR NUMBER 256: Yes, sir.

18 CLERK, MIKE CALLAHAN: Are they

19 still your verdicts?

20 JUROR NUMBER 256: Yes, sir.

21 CLERK, MIKE CALLAHAN: Juror Number

22 306, were those your verdicts?

23 JUROR NUMBER 306: Yes, sir.

24 CLERK, MIKE CALLAHAN: Are they

25 still your verdicts?

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1 JUROR NUMBER 306: Yes, sir.
2 CLERK, MIKE CALLAHAN: Thank you.
3 Juror Number 330, were those your verdicts?
4 JUROR NUMBER 330: Yes, sir.
5 CLERK, MIKE CALLAHAN: Are they
6 still your verdicts?
7 JUROR NUMBER 330: Yes, sir.
8 CLERK, MIKE CALLAHAN: Juror Number
9 363, were those your verdicts?
10 JUROR NUMBER 363: Yes, sir.
11 CLERK, MIKE CALLAHAN: Are they
12 still your verdicts?
13 JUROR NUMBER 363: Yes, sir.
14 CLERK, MIKE CALLAHAN: Juror Number
15 370, were those your verdicts?
16 JUROR NUMBER 370: Yes, sir.
17 CLERK, MIKE CALLAHAN: Are they
18 still your verdicts?
19 JUROR NUMBER 370: Yes, sir.
20 CLERK, MIKE CALLAHAN: Thank you.
21 Juror Number 381, were those your verdicts?
22 JUROR NUMBER 381: Yes, sir.
23 CLERK, MIKE CALLAHAN: Are they
24 still your verdicts?
25 JUROR NUMBER 381: Yes, sir.

1 CLERK, MIKE CALLAHAN: Thank you. Is
2 there any juror whose number I did not call?
3 If so, please raise your hand at this time.
4 (No verbal response). Thank you. Your Honor,
5 the jury has been polled and the verdict
6 stands.

7 THE COURT: Thank you very much,
8 Mr. Callahan.

9 CLERK MIKE CALLAHAN: Yes. Sir.

10 THE COURT: Ladies and gentlemen,
11 at this point I'm going to excuse you and ask
12 you to return to your jury room. There are
13 matters that I need to take up out of your
14 presence, and we'll be with you very shortly.
15 Thank you, you may retire to your jury room.

16 (JURY EXITS COURTROOM)

17 THE COURT: First, I assume no
18 Motions on the part of the State.

19 SOLICITOR WILSON: No, sir.

20 THE COURT: I'll be happy to hear
21 from you, Mr. Bloom.

22 MR. BLOOM: Your Honor, we would
23 make a Motion for a new trial, alternatively a
24 Motion for reversal of judgment and
25 alternatively a Motion to set aside the

1 verdict based on all prior objections and
2 Motions we placed on the record in the case
3 before the Court.

4 THE COURT: Thank you, Mr. Bloom.
5 I appreciate that. And as I stated in ruling
6 on the Motions for directed verdict, clearly
7 there was substantial evidence to support the
8 verdict, and therefore the Court would
9 respectfully deny the Motions. The rulings
10 previously made, the rationale for those
11 rulings, I would reiterate that and deny the
12 Motions as well on that basis.

13 The defendant now having been
14 convicted of the crime of murder will move us
15 into the second phase. As we had a discussion
16 generally and you've discussed with your
17 client his right to have a twenty-four hour
18 delay, Mr. Bloom?

19 MR. BLOOM: That's correct.

20 THE COURT: And it is your desire
21 to exercise that right, sir?

22 MR. BLOOM: It is, Your Honor.

23 THE COURT: All right. The next
24 part that talks about we need to finalize the
25 statutory mitigating circumstances.

1 At this point the mitigating
2 circumstances, I'm going to require that to be
3 disclosed before we start, before we bring the
4 jury in and begin. I'm going to give
5 everybody an opportunity to reflect on that
6 but we need to place that on the record before
7 we start, as I understand it.

8 I assume the aggravating
9 circumstances were obviously kidnaping and the
10 criminal sexual conduct and torture. Are
11 there any other aggravating circumstances at
12 this point?

13 BRUCE DURANT: I think those are
14 the ones upon which we are going to rely. I
15 think we included another in our Motion but
16 probably those are the ones we rely on.

17 THE COURT: And the mitigating
18 circumstances at this juncture, I would
19 require those to be disclosed, please.

20 MR. BLOOM: Yes, sir.

21 THE COURT: Can you disclose the
22 ones at this point, sir? The statutory ones,
23 obviously.

24 MR. BLOOM: Yes, sir, the statutory
25 ones.

1 Your Honor, in 16-3-20©), subtext
2 (b)(2), two, four, the murder was committed
3 while the defendant was under the influence of
4 a mental or emotional disturbance.

5 THE COURT: Okay.

6 MR. BLOOM: Six, the capacity of
7 the defendant to appreciate the criminality of
8 the conduct to conform his conduct to the
9 requirements of the law was substantially
10 impaired.

11 THE COURT: Okay.

12 MR. BLOOM: Seven, behavior and
13 mentality of the defendant at the time of the
14 crime.

15 THE COURT: Okay.

16 MR. BLOOM: That would be all. I
17 would reserve our right, Your Honor, both
18 under the statute as well as the Eighth and
19 Fourteenth Amendments, upon further
20 consultation with Mr. Dickerson as well as co-
21 counsel, to supplement that, if necessary.
22 And, again, once the evidence is produced.

23 THE COURT: That's fine.

24 MR. BLOOM: I think that provides
25 the State a fair disclosure.

1 THE COURT: It does. And let me
2 assure the State that if there are any things
3 disclosed that comes as somewhat a surprise,
4 we'll cross that bridge and I'll certainly
5 hear any Motions that you want to lay so
6 giving you an opportunity, if necessary, to
7 consult and/or necessary to compel witnesses
8 to testify. But certainly you'll be afforded
9 that opportunity.

10 SOLICITOR WILSON: Thank you.

11 THE COURT: Any other matters now
12 before we discuss with the jury? Those are
13 the ones I believe we have to address at this
14 point. I'm not familiar with anything else we
15 have to address. Anything from the State?

16 SOLICITOR WILSON: No.

17 THE COURT: Anything from the
18 defendant?

19 MR. BLOOM: No, sir, not at this
20 time.

21 THE COURT: Thank you very much.
22 I'm going to advise the jury -- my intentions
23 are to discuss with them it's now 5:30 or when
24 the verdicts were read. Obviously, the
25 earliest we could start would be 5:30

1 tomorrow.

2 I don't know what they want to do --
3 whether they want to come back for thirty
4 minutes or not. I don't know whether they
5 want to start and work on Saturday. I'm going
6 to give them that option and let them make a
7 decision as to what they would like to do.
8 The next working day, if they choose not to,
9 would be Monday and we would start at 9:30 on
10 Monday. Let's bring in our jury, please.

11 BAILIFF: The alternates too?

12 THE COURT: Yes, sir, everybody.

13 (JURY ENTERS @ 5:33 P.M.)

14 BAILIFF: All present, Your
15 Honor.

16 THE COURT: Thank you, Ladies and
17 Gentlemen. I appreciate that. There were
18 some matters, of course, that I needed to take
19 up.

20 Now we want to revisit some things
21 that we talked about when we were having our
22 discussions with you about this proceeding.

23 As you know, that completes the first
24 stage of this proceeding. There now is a
25 second phase where you hear additional

1 evidence dealing specifically with the
2 penalty. You recall that, and you recall each
3 one of you assured the State and assured Mr.
4 Dickerson and assured the Court that you would
5 have no problem having an open mind now having
6 concluded this. And, again, I must reiterate
7 to you the importance of that as you can
8 certainly appreciate now, having been through
9 the first part. It's very critical that you
10 maintain that open mind.

11 It's very important because,
12 obviously, again, we've completed parts. And
13 the temptation, being human beings, the
14 temptation will be there to discuss certain
15 things. That probably -- there is even more
16 reason now that you not talk with anyone or
17 permit anyone to talk with you about this
18 case. I'm confident each one of you has
19 honored the commitment thus far, and I urge
20 you and tell you that it would be a tragedy
21 for everybody, and you included, if anything
22 is done now to throw two weeks away and have
23 to do it all again because somebody talked
24 about something or read something about it.
25 So please remember how important it is now

1 that you not do anything. And I trust you to
2 do exactly what you promised to do. And
3 therefore, we're not going to sequester you.

4 There's a statute that requires
5 there's a twenty-four hour period before we
6 can start the second part. So if 5:30 was
7 when the verdict was published, we can come
8 tomorrow at 5:30 and take thirty minutes,
9 based on what you all have asked to observe --
10 that is 6:00 o'clock.

11 I'm going to ask you to do something.
12 I'll do whatever the jury wants to do, Mr.
13 Partee. We can start. If you don't want to
14 come, we can start and renew on Monday. That's
15 fine. If we do it'll be 9:30 on Monday that
16 we'll start, at our normal time, when we'll
17 start the second phase.

18 We are willing -- I offer again to
19 all of you Saturday. I think Sunday ought to
20 not be used. But if the jury wants to take
21 testimony and work on Saturday, we'll do that.
22 But that's up to you all. I ask you to
23 respect each other and obviously you make that
24 call as to whether you want to or not. But
25 we'll be available for whatever the jury wants

1 to do. But, again, please remember that if
2 you elect to say we'll come back Monday,
3 that's fine.

4 You will be excused. Do not discuss
5 this case with anyone. Do not permit anyone
6 to talk with you. Do not read anything. Do
7 not watch any programs about it, and have a
8 wonderful weekend. If you elect to come back
9 tomorrow for thirty minutes then we'll
10 certainly do that, or an hour or so, we can do
11 that. Or if you want to come back Saturday,
12 just let us know whatever it is. If you elect
13 Saturday, then it will be 9:30.

14 If you'll just go into your jury room
15 now and discuss it among your jurors and just
16 let us know what you want to do, and then
17 we'll tell you what to do.

18 Please, again, remember you can't
19 talk with anyone. Thank you for your
20 attention. You may retire.

21 (JURY EXITS COURTROOM)

22 THE COURT: Any exceptions or
23 additions from the State?

24 SOLICITOR WILSON: No, sir.

25 THE COURT: Any exceptions or

1 additions from the defendant?

2 MR. BLOOM: Just to allowing the --
3 the alternates are going to participate in
4 that?

5 THE COURT: Oh, yes, absolutely.
6 Everybody -- the alternates now are back.
7 They're a part of the panel. Thank you, Mr.
8 Bloom. Absolutely.

9 We'll be at-ease for a moment.

10 If the jury wants to come back
11 Monday, there's one thing that I would like to
12 do if we can. And that is we can take care of
13 -- get ready to roll on Monday, is to hear the
14 proffer from the guards that we've heard one
15 side. But it's your call.

16 Because my feeling is if they wait
17 till Monday, you've got more than twenty-four
18 hours to gather and collect your thoughts, as
19 does the State.

20 We could do that tomorrow afternoon,
21 assuming everybody's available. But I'll
22 defer that -- I would love to do that so I can
23 hear that and then I can make some
24 determination before we get started.

25 MR. BLOOM: It would be helpful to

1 resolve that pending Motion tomorrow rather
2 than Monday.

3 THE COURT: Yes, I would much
4 prefer to do that than to have -- because what
5 I'm going to do if we're going to have to do
6 that -- I don't know when they plan to do
7 that, whether it's going to be first or later.
8 But if it's going to be later, then I would
9 think we were going to spend an evening
10 together. And I'd just as soon not make
11 everybody stay over here late. So if
12 tomorrow's a doable time, then I'm willing to
13 do it or any time you want to do it is fine
14 with me.

15 BRUCE DURANT: I assume by
16 "proffer" you just mean us to proffer what the
17 ---

18 THE COURT: Yes, so I can hear
19 because I've got to -- because I've heard one
20 side of it. But as I told you, I need to hear
21 what they're going to testify to beforehand.

22 BRUCE DURANT: We're probably only
23 going to call one witness, Your Honor. What
24 time would you care to do that?

25 THE COURT: What time would you

1 want to do it?

2 BRUCE DURANT: About 2:30 or so?

3 THE COURT: That's great with me.

4 Does that work with you?

5 MR. BLOOM: Fine, Your Honor.

6 THE COURT: You're sure. Then
7 we'll just say 2:30 tomorrow and we'll hear
8 that witness as well. We'll take care of
9 that. That's great. That's very helpful.
10 Thank you. I appreciate it.

11 BRUCE DURANT: Thank you, Your
12 Honor.

13 MR. BLOOM: In that vein, Your
14 Honor, assuming the State takes two days, we'd
15 anticipate beginning our case Tuesday
16 afternoon.

17 THE COURT: That's good. That
18 would be great. I think that would be a fair
19 assessment.

20 MR. BLOOM: If that's the case, if
21 we start on Tuesday afternoon then I would
22 anticipate completing our case by Thursday.

23 THE COURT: All day Thursday?

24 MR. BLOOM: That would be two and a
25 half days. So I would think that would be it.

1 THE COURT: Okay. Have we heard
2 anything from the jury?

3 BAILIFF: I'll ask them.

4 THE COURT: Ask them if they've
5 made a decision.

6 MR. BLOOM: In that same vein,
7 again just to educate the Court, if it started
8 Wednesday morning that I would anticipate
9 going until Friday.

10 THE COURT: I remember seeing that.
11 We have a note.

12 COURT REPORTER: Court's Exhibit 23.

13 (SO ENTERED AS COURT'S EXHIBIT 23)

14 THE COURT: The first part is they
15 want to start on Monday. The second part is
16 "the jury would like to be excused from work
17 on 5/1 to avoid exposure to conversations at
18 work." I'm going to tell them -- we'll tell
19 him -- Mr. Callahan, let's put they are
20 excused running continually over tomorrow.
21 Okay?

22 CLERK, MIKE CALLAHAN: Yes, sir.

23 THE COURT: We'll do that. And I'm
24 going to let them have to deal with that part.
25 I'll just tell them their certificate will put

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1 them being involved in this case all of this
2 week. And what they tell their employer --
3 bring them in, please.

4 MR. BLOOM: Anticipating the
5 headlines in tomorrow's paper that might be a
6 reasonable request.

7 THE COURT: True, that may be very
8 legitimate. Why don't I just instruct them
9 that I want them not to be in a situation
10 where they would be confronted by questioning.
11 That will, I think, solve the issue. That's
12 sequestration without sequestration. Self-
13 sequestration.

14 (JURY ENTERS COURTROOM)

15 THE COURT: Thank you very much,
16 Mr. Partee. The first part of the Court's
17 exhibit says the jury would prefer to start on
18 Monday at 9:30; that's fine, that's done.

19 The second part was a request to be
20 excused from work for tomorrow. While we
21 won't be working, and that's a technical
22 issue, my thought process is if you -- and
23 heretofore, not this case but in other cases
24 where a jury was involved much as you, during
25 the twenty-four hour waiting period they sat

1 at a motel. So I think this is a very
2 legitimate request on the part of the jury,
3 and I appreciate that. I'm not even going to
4 -- yes, your excuse will cover it but I want
5 my instruction to go one step further. I
6 think you ought to have, especially tomorrow,
7 really a self-imposed sequestration. Because
8 I don't think you ought to be in a situation
9 where you have even an opportunity for someone
10 to talk with you. So I think not only -- you
11 will be working. You will be working by not
12 putting yourself in a situation where you will
13 confront anyone and have to talk or they will
14 have an opportunity to talk with you. So I'm
15 going to ask you to do that. Because,
16 obviously, as you can imagine, I'm sure there
17 will be something in the newspaper tomorrow.
18 And you're obviously not permitted to read it.
19 But please honor that as well. Over the
20 weekend you use your judgment. You're free to
21 do what you want, of course, but again, do not
22 talk to anyone. But, yes, absolutely, you are
23 working tomorrow, as far as this Court is
24 concerned.

25 So have a good weekend. Thank you

1 for your attention throughout this matter.
2 Thank you for your commitment to this process.
3 Please understand I'm not by thanking you
4 commenting on any decisions that have been
5 made thus far. That's not what I'm talking
6 about. I'm talking about the sacrifice that
7 you make and others have made, and that you
8 will make next week.

9 We'll see you Monday morning. Be in
10 the jury room by 9:30. Thank you all. You
11 are free to leave.

12 (JURY EXITS @ 6:00 P.M.)

13 THE COURT: Thank you. Be seated.
14 Every day I learn something and that's a great
15 idea from a jury of what to do in the twenty-
16 four hour waiting period if we're not going to
17 sequester them. It's pretty thoughtful on
18 their part. So exceptions from the State to
19 the comments of the Court?

20 SOLICITOR WILSON: No, sir.

21 THE COURT: Any exceptions from the
22 defendant?

23 MR. BLOOM: No, sir.

24 THE COURT: Thank you all. Then we
25 will be at ease until tomorrow at 2:30.

1 (COURT IN RECESS)

2 (TRANSCRIPT CONTINUED NEXT PAGE)

3

4 MAY 1, 2009

2:30 P.M.

5

6 (IN CHAMBERS CONFERENCE)

7 (DEFENDANT PRESENT)

8 THE COURT: Thank you all. Let the
9 record reflect Mr. Dickerson is present. Good
10 afternoon, Mr. Dickerson.

11 We are here to hear the proffer on
12 some of the witnesses from the Leeds Avenue
13 Correctional Facility, which is a continuation
14 of the hearing that we heard witnesses, I
15 believe, on behalf of Mr. Dickerson concerning
16 alleged incidents that occurred there.

17 Before doing that, however, we have
18 had a meeting. Solicitor, I'll turn it over
19 to you to kind of sum up where we are after
20 that meeting.

21 SOLICITOR WILSON: Thank you,
22 Your Honor. We have three Exhibits that we
23 will hand up for the Court. Basically, what
24 we learned at about 11:00 o'clock today was
25 that previously subpoenaed jail telephone

1 calls of the Defendant wherein we specifically
2 asked that the jail not include phone calls to
3 their attorneys were included.

4 When we were getting ready to have a
5 meeting within my office to discuss whether or
6 not we wanted to listen to the calls
7 ourselves, it was inquired by one of my
8 investigators or the paralegal who actually
9 listened to some of the calls on the CD, he
10 asked if there were any attorney calls on the
11 CD. She informed him that there were but she
12 had not listened to them. At that point we
13 called Mr. Bloom to let him know that we were
14 in the possession of those calls and that no
15 one on our staff had listened to those calls
16 and that we wanted to inform the Court.

17 We have prepared Exhibits for the
18 Court that Mr. Durant, both Mr. Durants,
19 Rutledge or Bruce Durant, nor myself, nor my
20 investigators have -- I don't believe -- we
21 have the notes from the parties who listened
22 to the calls. We have our CD, so that we
23 won't be in possession of any CD's at all to
24 give to the Court. We just ask that you look
25 over the notes and make sure that either you

1 believe the defense should have the notes or
2 they shouldn't have them; whatever your
3 discretion is on that. And then give our
4 copies of the CDs to the defense.

5 I had spoken with Mr. Bloom during the
6 guilt phase of the trial to let him know that
7 we had gotten the jail records -- I mean the
8 jail phone calls -- and that if we intended to
9 use any, we would make specific copies of the
10 calls so that he wouldn't have to listen to
11 them all, just what we intended to use. And
12 that's what we were going to do today.

13 Obviously, that's not going to happen
14 because we no longer have the CDs. That's
15 where we are.

16 When the exhibits get here I'll hand
17 them up to the Court so that they can be
18 turned over to the other side and make the
19 call yourself on that.

20 THE COURT: The paralegal that
21 actually made the notes -- Mr. Bloom mentioned
22 this in our conference -- that person has not,
23 is not working on this case now and will not
24 work on this case. Is that correct?

25 SOLICITOR WILSON: That's fine,

1 Your Honor. She has been.

2 THE COURT: She has been up to now,
3 but will not be from this day forward.

4 SOLICITOR WILSON: She has been
5 since we started the trial. She has not been
6 involved in witness interviews or strategy
7 sessions or anything like that. But, again, I
8 stress that she knows that she will not be
9 involved going forward.

10 THE COURT: I understand that, and
11 I don't quarrel with that and I'm not
12 challenging that. I just think out of an
13 abundance of caution that she should be
14 removed and not have any involvement with
15 this.

16 MR. BLOOM: Could we have that
17 person's name, Solicitor?

18 SOLICITOR WILSON: Jessica
19 Baldwin. There is also a secretary within my
20 office, who is in England now, who Ms. Baldwin
21 tells me listened to one of the CDs, reported
22 back that she heard nothing on it. That
23 secretary was given instructions by Ms.
24 Baldwin not to listen to any privileged calls,
25 any attorney calls whatsoever, and we don't

1 have any information from her.

2 THE COURT: But she's not here.

3 SOLICITOR WILSON: She's not
4 here.

5 THE COURT: And will not be back
6 before this case is concluded.

7 SOLICITOR WILSON: She will be
8 back Monday, but she has not been involved in
9 the case in any fashion.

10 THE COURT: She should have no
11 contact with this case, obviously.

12 MR. BLOOM: Could we have her name?

13 SOLICITOR WILSON: Brooke Jones.

14 THE COURT: Jessica Baldwin and
15 Brooke Jones are persons in your office who
16 will now, from this time forward, not have any
17 further dealings with this case.

18 SOLICITOR WILSON: Yes, sir.

19 THE COURT: Okay. Anything else,
20 Mr. Bloom?

21 MR. BLOOM: Nothing further. We
22 think that procedure is appropriate and the
23 Motions we had in writing will be handed up.

24 THE COURT: That'll be fine. Thank
25 you so much. Okay, while we're waiting on

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1 those things we can go ahead and start taking
2 testimony. I'll be happy to hear from you,
3 Mr. Durant.

4 BRUCE DURANT: Thank you, Your
5 Honor. The State would call Leester Williams.

6 SOLICITOR WILSON: Your Honor,
7 while she's coming in, just for the record, I
8 handed up a case, a District Court case,
9 *United State v. Lint*.

10 THE COURT: Yes.

11 SOLICITOR WILSON: Which is 419
12 F.Supp.2d 820. It's a 2005 case which
13 specifically addresses jail recordings such as
14 these, holdings or findings that they are not
15 privileged, just in case we get to that issue.

16 THE COURT: Thank you so much.

17 COURT REPORTER: Court's Exhibit 23.

18 (SO ENTERED AS COURT'S EXHIBIT 23)

19 (WITNESS TAKES STAND)

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

23 DIRECT EXAMINATION

24 BY BRUCE DURANT:

25 Q. Good afternoon, Ms. Williams.

1 A. Good afternoon.

2 Q. Could you tell the judge what you do for a
3 living?

4 A. I'm on the tactical control squad at the
5 Charleston County Detention Center.

6 Q. And how long have you been on the TAC
7 Squad at the Charleston County Detention
8 Center?

9 A. About twelve years.

10 Q. You've been a TAC officer for twelve
11 years. Is that correct?

12 A. Yes.

13 Q. What is a TAC officer?

14 A. It's an officer that works with
15 disciplinary or special inmates, pretty much
16 handles disturbances within the facility.

17 Q. As a TAC officer at the Charleston County
18 Detention Center have you had occasion to come
19 into contact with the Defendant, William
20 Dickerson?

21 A. Yes, sir.

22 BRUCE DURANT: Your Honor, can you
23 hear you?

24 THE COURT: I can. Thank you.

25 DIRECT EXAMINATION CONTINUED

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1 BY BRUCE DURANT:

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

7 A. Yes, sir.

8 Q. Could you tell the judge about that?

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

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

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

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

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

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

1 into a second day; is that correct?

2 A. Yes, sir.

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

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

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

11 A. Yes, sir.

12 Q. Involved in what regard or what capacity?

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

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

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

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

4 Q. Were the inmates given that opportunity?

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

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

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

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

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

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

1 Defendant William Dickerson?

2 A. Yes, sir.

3 Q. Could you tell the judge about that?

4 A. We were conducting a unit search in which

5 ---

6 Q. Who is "we"?

7 A. Officer Acker, Officer Walker, Officer
8 Huggins and myself.

9 Q. Okay.

10 A. We were conducting a cell search in which
11 we were checking each individual cell,
12 checking to see whether there was any
13 contraband inside those cell. And if there
14 was, we were to remove it.

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

17 A. This was Unit 1A.

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

19 A. Unit 1A is the disciplinary unit and where
20 we house inmates that are in protective
21 custody.

22 Q. And had you'all already conducted a
23 contraband sweep on some of the other cells in
24 Unit 1A?

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

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

3 Q. And who was in Cell 1236A?

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

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

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

12 Q. Did they comply?

13 A. Not immediately; no, sir.

14 Q. What did they do?

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

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

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

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

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

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

9 Q. Is the plastic bag considered contraband?

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

12 Q. Do you know why that is?

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

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

17 A. On the bunk.

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

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

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

25 A. He was actually still in the cell.

1 Q. So Mr. Williams came out of the cell?

2 A. He was -- he made an attempt to come out
3 the door. However, he doubled back to assist.
4 That's when Mr. ---

5 Q. We're talking about Mr. Williams now, not
6 Mr. Dickerson?

7 A. Right. Mr. Williams.

8 Q. Just so I'm clear, Inmate Williams came
9 out of the cell?

10 A. Almost, just about.

11 Q. Or was coming out of the cell?

12 A. Right.

13 Q. Which detention officer went into the
14 cell?

15 A. Officer Asher.

16 Q. Then Mr. Williams did what?

17 A. He immediately turned back with his fist
18 balled up at Officer Asher.

19 Q. Did Officer Asher know this was going on?

20 A. No.

21 Q. He has his back to Mr. Williams?

22 A. He was actually facing Mr. Dickerson.

23 Q. Then what happened?

24 A. When he turned to go back, that's when
25 Officer Walter arrived and grabbed his

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

4 Q. Who was engaged with Inmate Williams?

5 A. Officer Walker.

6 Q. Were you engaged with Inmate Williams too?

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

9 Q. And then what happened?

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

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

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

1 Q. Who was grabbing Officer Huggins around
2 the neck?

3 A. Inmate Dickerson.

4 Q. In what fashion?

5 A. He was just basically trying to choke him.
6 And I was there holding his legs to keep him
7 from break something with his feet. I kept
8 pulling him and pulling him. And then finally
9 Mr. Asher was able to get free. And, uh,
10 Officer Huggins and myself were actually
11 making an attempt to restrain Inmate
12 Dickerson.

13 Q. Okay. And this was while he was choking
14 Officer Huggins?

15 A. Yes.

16 Q. What happened then?

17 A. Once we were -- we were still trying to
18 get him off of Officer Huggins. Somehow I was
19 able to wiggle out of his hands and, once
20 again, I still had his legs to prevent him
21 from standing and breaking something. But
22 once he was able to get loose, pretty much he
23 was now unrestrained.

24 Q. And were you able to restrain him?

25 A. Yes.

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

3 A. Yes, sir.

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

6 A. Yes, sir.

7 Q. In what way?

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

10 Q. Was medical called?

11 A. Yes, sir.

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

13 A. Yes, sir.

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

16 A. No.

17 Q. Were any of your officers injured?

18 A. Yes, sir.

19 Q. Which one?

20 A. Officer Huggins.

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

23 A. Yes, sir.

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

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

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

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

10 A. Excuse me?

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

13 A. The entire facility?

14 Q. Yes.

15 A. Roughly, around fifteen hundred.

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

18 A. Three to five.

19 BRUCE DURANT: Did you hear all
20 that?

21 THE COURT: Yes, sir.

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

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

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

3 THE COURT: Yes, sir.

4 CROSS EXAMINATION

5 BY MR. CARROLL:

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

10 A. Yes, sir.

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

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

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

16 A. Yes, sir.

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

20 A. Yes, sir.

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

23 A. Sir?

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

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

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

5 A. Yes, sir.

6 Q. What's the standard?

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

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

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

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

17 A. Yes, sir.

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

21 A. Yes, sir.

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

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

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

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

7 A. No, sir.

8 Q. You would not?

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

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

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

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

16 A. Say that again?

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

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

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

25 A. If we had an inmate that was barricading

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

6 Q. Where's the camera stored?

7 A. Behind the desk.

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

10 A. Yes, sir.

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

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

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

14 A. To my knowledge, no, sir.

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

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

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

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

1 window. So we were speaking to them.

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

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

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

10 A. Quite possibly.

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

13 A. Not immediately.

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

15 A. Eventually, sir.

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

18 A. No.

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

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

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

4 A. Say that again.

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

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

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

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

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

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

1 floor. So we were focusing on that item.

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

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

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

9 A. Yes, sir.

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

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

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

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

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

22 A. Not to my knowledge.

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

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

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

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

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

10 A. I don't recall that.

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

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

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

22 BRUCE DURANT: Objection.

23 THE COURT: Sir?

24 BRUCE DURANT: Objection,
25 relevance.

1 THE COURT: I'll allow it.

2 CROSS EXAMINATION CONTINUED

3 BY MR. CARROLL:

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

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

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

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

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

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

25 Q. I didn't understand you earlier saying

1 anything about them refusing to come out.

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

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

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

12 Q. And he ended up on the floor?

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

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

17 A. Which one?

18 Q. Inmate Williams.

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

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

23 A. Not a real big man.

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

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

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

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

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

10 A. Yes, sir.

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

13 A. Yes, sir.

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

16 A. Yes, sir.

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

20 A. (No verbal response).

21 Q. Do you know about that?

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

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

1 checking his eyes?

2 A. I cannot say what the nurse said.

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

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

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

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

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

19 A. I'm not sure.

20 Q. There was no violence, was there?

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

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

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

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

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

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

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

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

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

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

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

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

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

6 A. Yes, on the second day.

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

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

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

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

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

17 A. Yes, sir.

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

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

1 were called in, to keep things safe.

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

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

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

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

9 THE COURT: Certainly.

10 CROSS EXAMINATION CONTINUED

11 BY MR. CARROLL:

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

15 A. Yes, sir.

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

18 A. Yes, sir.

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

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

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

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

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

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

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

9 A. Yes, sir.

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

12 A. I believe Officer Huggins may have.

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

16 A. Repeat that, please.

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

19 A. How he was informed?

20 Q. Yes, ma'am.

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

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

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

2 A. And the plastic bags as well.

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

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

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

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

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

15 BRUCE DURANT: Argumentative.

16 THE COURT: Slightly. Mildly.

17 Redirect?

18 BRUCE DURANT: I have nothing.

19 THE COURT: You may come down.

20 Thank you.

21 THE WITNESS: Thank you, sir.

22 (WITNESS STEPS DOWN)

23 THE COURT: Any additional
24 witnesses?

25 RUTLEDGE DURANT: One, Your Honor.

1 The State calls Michael Huggins.

2 (WITNESS TAKES STAND)

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

6 DIRECT EXAMINATION

7 BY RUTLEDGE DURANT:

8 Q. Good afternoon, Mr. Huggins.

9 A. G'afternoon.

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

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

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

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

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

22 A. A year and four months.

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

25 A. Yes, sir.

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

3 A. Yes, sir.

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

6 A. Cell 1236A.

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

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

11 Q. You said he was in 1236A?

12 A. Correct.

13 Q. Was he with anybody, any roommate?

14 A. Inmate John Williams.

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

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

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

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

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

1 A. Yes, sir.

2 Q. And the deputies are inside Cell Block A?

3 A. Yes, sir, up at the front of the unit.

4 Q. So what happened?

5 A. I was at the desk observing Officers
6 Williams, Asher and Walker instructing Inmate
7 Williams and Inmate Dickerson to exit. That's
8 when I saw Walker and Inmate Williams engage
9 in like a little bit of a struggle. Walker
10 threw Inmate Williams to the ground. Asher
11 out to assist with Williams and that's when
12 Inmate Dickerson came up behind Officer Asher,
13 picked him up off the ground and placed -- and
14 slammed him on the ground. I started to go
15 there to engage.

16 Q. And did you engage?

17 A. Yes, sir, I engaged in taking Inmate
18 Williams to the ground -- Inmate Dickerson to
19 the ground, sorry, and he ended up on top of
20 me.

21 Q. And what happened at that point? Who was
22 involved with William Dickerson at this point?

23 A. Officer Williams and I were.

24 Q. And so what happened?

25 A. He was on top of me with his arms around

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

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

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

11 Q. And how did that feel to you?

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

16 Q. Were you able to deal with him?

17 A. Yes.

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

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

22 Q. Thank you, sir.

23 THE COURT: Cross examine.

24 CROSS EXAMINATION

25 BY MR. CARROLL:

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

3 A. Yes, sir.

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

8 A. Yes, sir.

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

11 A. Yes, sir.

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

15 A. Yes, sir.

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

18 A. Yes.

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

21 A. Yes, sir.

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

24 A. Yes, sir.

25 Q. And nowhere in that statement do you

1 mention anything about being choked, do you?

2 A. No, sir, I do not.

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

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

7 Q. CCOH, what is that?

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

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

12 A. Yes, sir.

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

15 A. No, sir.

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

18 THE COURT: Redirect, Mr. Durant?

19 REDIRECT EXAMINATION

20 BY RUTLEDGE DURANT:

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

23 A. No, sir.

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

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

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

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

6 Q. Thank you, sir.

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

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

11 THE COURT: Certainly.

12 MR. CARROLL: No, sir.

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

15 (WITNESS STEPS DOWN)

16 THE COURT: Anything else?

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

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

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

1 issues.

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

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

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

25 I don't think this has that great of

1 an effect.

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

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

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

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

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

1 these situations.

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

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

20 BRUCE DURANT: I understand.

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

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

25 THE COURT: No question about that.

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

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

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

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

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

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

25 THE COURT: Okay.

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

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

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

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

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

21 THE COURT: No.

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

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

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

5 BRUCE DURANT: All right.

6 MR. BLOOM: Thank you.

7 THE COURT: You bet.

8 BRUCE DURANT: Thank you, Your
9 Honor.

10 THE COURT: You bet.

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

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

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

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

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

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

4 COURT REPORTER: Number 24.

5 (SO ENTERED AS COURT'S EXHIBIT 24)

6 THE COURT: Tapes, subpoena and
7 notes.

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

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

18 COURT REPORTER: Court's Exhibit 25.

19 (SO ENTERED AS COURT'S EXHIBIT 25)

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

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

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

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

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

17 (SO ENTERED AS COURT'S EXHIBIT 26)

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

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

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

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

6 (BRIEF RECESS)

7 (DEFENDANT PRESENT)

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

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

1 retain.

2 MR. BLOOM: Yes, sir.

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

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

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

25 Court's Exhibit 23 is an envelope

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

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

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

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

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

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

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

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

10 THE COURT: You may, (tendering).

11 MR. BLOOM: Thank you.

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

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

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

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

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

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1 SOLICITOR WILSON: No, sir.

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

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

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

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

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

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

1 minor. I meant criminal sexual conduct.

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

3 THE COURT: I understand.

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

7 THE COURT: Correct.

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

10 THE COURT: All right.

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

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

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

25 THE COURT: Nor I. In fact, what

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

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

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

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

25 SOLICITOR WILSON: The only thing I

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

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

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

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

19 SOLICITOR WILSON: Yes, sir.

20 THE COURT: Thank you.

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

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

8 THE COURT: That's correct.

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

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

20 MR. BLOOM: Yes, sir.

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

24 BRUCE DURANT: Thank you.

25 THE COURT: Thank you.

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(COURT IN RECESS)

(TRANSCRIPT CONTINUED NEXT PAGE)

1 MAY 4, 2009

9:30 A.M.

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(DEFENDANT PRESENT)

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

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

17

(COURT PERSONNEL SWORN)

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

24

(SO ENTERED AS COURT'S EXHIBIT 29)

25

THE COURT: Do you have any

1 objection to their badges?

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

4 SOLICITOR WILSON: No, sir.

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

7 MR. BLOOM: No, sir.

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

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

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

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

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

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

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

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

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

2 (UNANIMOUS AFFIRMATIVE RESPONSE FROM JURORS)

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

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

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

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

1 imprisonment without the possibility of
2 parole."

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

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

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

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

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

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

20 Solicitor?

21 BRUCE DURANT: Thank you.

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

25 SOLICITOR WILSON: No, sir.

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1 THE COURT: Any from the defendant?

2 MR. CARROLL: None, Your Honor.

3 THE COURT: Excuse me for
4 interrupting.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4 THE COURT: Sustained at this point.

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

9 THE COURT: Mr. Bloom?

10 MR. BLOOM: May it please the Court?

11 THE COURT: Yes, sir.

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

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

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

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

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

25 When he gets to be about ten or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

15 Interestingly, Sandra Fokes, one of
16 her last answers, she prayed that there -- I
17 can't remember the exact words but she prays
18 for resolution for her family and for the Roper
19 Family. I submit to you that a sentence of
20 life without parole is appropriate, one that
21 each of you in your own individualized,
22 reasoned moral judgment can accept.

23 Also, remember that the Judge told you that you
24 can find life without parole for any reason,
25 for no reason, or a simple act of mercy. If

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

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

14 Thank you.

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

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

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

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

1 THE COURT: They are preserved.

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

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

8 You may call your first witness.

9 RUTLEDGE DURANT: The State calls
10 Edward Haselden.

11 (WITNESS TAKES STAND)

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

15 DIRECT EXAMINATION

16 BY RUTLEDGE DURANT:

17 Q. Good morning.

18 A. Morning.

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

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

24 Q. How long have you been doing that?

25 A. On July 20th, it'll be seventeen years.

1 Q. Is the Clerk of Court's Office the
2 custodian of all juvenile records of Charleston
3 County?

4 A. Yes.

5 Q. What juvenile records are maintained?

6 A. Any records that are filed with the Court.

7 Q. Do the records include disposition orders
8 for children that are adjudicated delinquent in
9 Charleston County?

10 A. Yes.

11 Q. I hand you what's been marked as State's
12 Exhibit 333 for identification and ask you to
13 take a look at it.

14 A. (Review).

15 Q. Do you recognize it?

16 A. I do.

17 Q. What is it?

18 A. It's an Order for probation.

19 Q. I hand you State's 334 for identification
20 and ask you to take a look at it. Do you
21 recognize it?

22 A. (Upon review) -- I do.

23 Q. What is it?

24 A. It's an Order for probation as well.

25 Q. Are the originals of those documents

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

3 A. Yes, sir.

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

6 A. Yes, sir.

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

11 A. They do.

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

15 A. Yes, sir.

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

18 A. William Oliver Dickerson.

19 Q. What is the date of the Order?

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

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

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

1 Q. And what is the disposition?

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

5 Q. And what was the sentence?

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

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

12 A. William Oliver Dickerson.

13 Q. What was the date of that Order?

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

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

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

21 Q. What was the disposition of that?

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

25 Q. Thank you, sir.

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

4 THE COURT: Any objection?

5 MR. BLOOM: No objection.

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

8 (SO ENTERED AS STATE'S EXHIBIT 333)

9 (SO ENTERED AS STATE'S EXHIBIT 334)

10 THE COURT: You may cross examine.

11 CROSS EXAMINATION

12 BY MR. BLOOM:

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

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

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

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

25 MR. BLOOM: Thank you very much,

1 sir.

2 THE COURT: Redirect?

3 RUTLEDGE DURANT: Nothing, Your
4 Honor.

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

7 (WITNESS TAKES STAND)

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

10 RUTLEDGE DURANT: The State calls Ian
11 Traynor.

12 (WITNESS TAKES STAND)

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

16 DIRECT EXAMINATION

17 BY RUTLEDGE DURANT:

18 Q. Good morning, Ms. Traynor.

19 A. Good morning.

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

22 A. With the Charleston County Clerk of Court.

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

25 A. Three and a half years.

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

3 A. I'm the General Sessions supervisor.

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

7 A. Yes, it is.

8 Q. What criminal records are maintained?

9 A. All case filings and Orders.

10 Q. Do the records include indictments?

11 A. Yes.

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

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

16 Q. What is that?

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

20 THE COURT: Certainly.

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

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

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

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

6 THE COURT: Yes, sir.

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

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

1 indictments.

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

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

9 RUTLEDGE DURANT: I don't ---

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

13 THE COURT: All right.

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

19 THE COURT: Okay.

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

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

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

10 THE COURT: Okay.

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

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

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

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

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

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

17 RUTLEDGE DURANT: (Negative gesture).

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

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

22 THE COURT: No.

23 BRUCE DURANT: How about the armed
24 robbery?

25 MR. BLOOM: The armed robbery ended

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

4 THE COURT: No. Thank you, sir.

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

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

20 MR. BLOOM: To arrest him.

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

24 THE COURT: You can proffer
25 anything.

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

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

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

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

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

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

10 BRUCE DURANT: Yes, Your Honor.

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

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

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

18 RUTLEDGE DURANT: Thank you, Your
19 Honor.

20 DIRECT EXAMINATION CONTINUED

21 BY RUTLEDGE DURANT:

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

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

1 Q. And what is that?

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

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

6 A. Yes.

7 Q. What is that?

8 A. Also a sentencing sheet.

9 Q. 329?

10 A. Yes.

11 Q. What is that?

12 A. A sentencing sheet.

13 Q. State's 330?

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

15 Q. State's 331.

16 A. Also a sentencing sheet.

17 Q. And State's 332.

18 A. Sentencing sheet.

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

21 A. Yes, they are.

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

24 A. Yes.

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

1 maintain those documents?

2 A. Yes, it is.

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

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

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

9 A. Yes, they do.

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

13 (SO ENTERED AS STATE'S EXHIBIT 327)

14 (SO ENTERED AS STATE'S EXHIBIT 328)

15 (SO ENTERED AS STATE'S EXHIBIT 329)

16 (SO ENTERED AS STATE'S EXHIBIT 330)

17 (SO ENTERED AS STATE'S EXHIBIT 331)

18 (SO ENTERED AS STATE'S EXHIBIT 332)

19 MR. BLOOM: No objection.

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

22 DIRECT EXAMINATION CONTINUED

23 BY RUTLEDGE DURANT:

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

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

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

1 A. Strong arm robbery.

2 Q. What was the sentence?

3 A. (Reading): "The defendant William
4 Dickerson is committed under the Youthful
5 Offender Act not to exceed six years."

6 Q. With regard to State's 329 who is the
7 defendant?

8 A. William O. Dickerson.

9 Q. What is his date of birth?

10 A. August 24, 1976.

11 Q. What is his social security number?

12 A. 249-33-7829.

13 Q. What was the date of conviction?

14 A. July 14, 1998.

15 Q. What was he convicted of?

16 A. Resisting arrest with a deadly weapon.

17 Q. What was the sentence?

18 A. The defendant was committed to the
19 Department of Corrections for a term of ten
20 years. Credit was given for time served.

21 Q. With regard to State's 330, who is the
22 defendant?

23 A. William O. Dickerson.

24 Q. What is his date of birth?

25 A. August 24, 1976.

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

1 A. Pointing a firearm.

2 Q. And what was the sentence?

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

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

8 A. William Dickerson.

9 THE COURT: 302?

10 RUTLEDGE DURANT: 332, excuse me.

11 THE COURT: Thank you.

12 DIRECT EXAMINATION CONTINUED

13 BY RUTLEDGE DURANT:

14 Q. Who is the defendant?

15 A. William Dickerson.

16 Q. What is his date of birth?

17 A. August 24, 1976.

18 Q. What is his social security number?

19 A. 249-33-7829.

20 Q. What was the date of conviction?

21 A. July 14, 1998.

22 Q. What was he convicted of?

23 A. Pointing a firearm.

24 Q. What was the sentence?

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

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

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

5 THE COURT: Cross-examine?

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

8 CROSS EXAMINATION

9 BY MR. BLOOM:

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

15 A. Yes.

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

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

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

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

25 Q. But from your records it appears he pled

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

3 A. Yes.

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

7 A. Yes.

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

10 A. (Affirmative nod).

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

13 A. "Yes."

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

19 A. Yes, that's correct.

20 Q. Thank you.

21 THE COURT: Redirect?

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

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

1 (WITNESS STEPS DOWN)

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

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

6 THE COURT: Certainly.

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

9 (WITNESS TAKES STAND)

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

13 DIRECT EXAMINATION

14 BY BRUCE DURANT:

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

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

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

21 A. Twenty years next month.

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

24 A. Uniform patrol in the downtown area.

25 Q. In that capacity did you have the occasion

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

3 A. Yes, I did.

4 Q. With reference to what?

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

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

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

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

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

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

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

22 Q. And what were the names?

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

25 Q. How many victims were involved?

1 A. There were nine victims.

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

4 A. Yes, it was.

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

8 A. Yes, he was.

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

13 A. Yes, sir, I am.

14 Q. And received a youthful offender sentence?

15 A. Yes, sir.

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

18 CROSS EXAMINATION

19 BY MR. CARROLL:

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

23 A. I don't recall that.

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

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

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

6 A. Correct.

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

9 A. At that time it was.

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

12 THE COURT: Okay.

13 CROSS EXAMINATION CONTINUED

14 BY MR. CARROLL:

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

18 A. Correct.

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

21 THE COURT: Redirect?

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

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

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

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

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

10 PROFFER EXAMINATION

11 BY BRUCE DURANT:

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

17 A. Yes, I did.

18 Q. Who lived at that residence?

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

21 Q. Sarah Jenkins or Sandra Jenkins?

22 A. Sandra.

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

25 A. Yes, I am.

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

3 A. Correct.

4 Q. Who had contacted the police?

5 A. She did herself.

6 Q. And why?

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

9 Q. Did you respond to the location?

10 A. Yes, I did.

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

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

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

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

22 Q. What did you do with those weapons?

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

25 Q. Was the defendant present at the time?

1 A. No, he was not.

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

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

6 MR. BLOOM: Yes, sir.

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

8 BRUCE DURANT: '93, Your Honor.

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

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

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

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

19 BRUCE DURANT: That's correct.

20 THE COURT: And used?

21 BRUCE DURANT: Exactly.

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

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

8 BRUCE DURANT: Thank you, Your
9 Honor.

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

14 Thank you very much you may come down.

15 (WITNESS STEPS DOWN)

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

18 (BRIEF RECESS)

19 (DEFENDANT PRESENT)

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

23 SOLICITOR WILSON: Yes, sir.

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

1 to make a proffer on.

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

4 BRUCE DURANT: That would probably
5 be best.

6 THE COURT: That'd be fine.

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

14 (WITNESS TAKES STAND)

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

18 PROFFER EXAMINATION

19 BY BRUCE DURANT:

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

23 A. Thirty-three years old.

24 Q. How far did you go in school?

25 A. One year of college.

1 Q. Where are you employed?

2 A. Currently unemployed.

3 Q. What are you doing now?

4 A. Taking care of my grandma.

5 Q. What's wrong with your grandmother?

6 A. She has Alzheimer's.

7 Q. Do you know the Defendant, William
8 Dickerson?

9 A. Yes.

10 Q. How do you know the Defendant?

11 A. He robbed me a long time ago.

12 Q. He what'd you a long time ago?

13 A. Robbed.

14 Q. Did you know who he was at the time?

15 A. Yes.

16 Q. And how do you know him? How do you know
17 of him?

18 A. We all lived in the same neighborhood.

19 Q. Was he a friend of yours?

20 A. No.

21 Q. Did you'all ever hang out together?

22 A. No.

23 Q. If you would, could you tell the Judge
24 what happened to you -- between you and the
25 defendant in the early morning of March 5 of

1 1996.

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

4 Q. Where were you living at the time?

5 A. Percy.

6 Q. And who were you living with?

7 A. My grandmother.

8 Q. Where were you going?

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

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

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

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

14 A. Yes.

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

17 A. He robbed me.

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

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

24 Q. What did he say to you.

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

1 Q. What did you give him?

2 A. I think I just had chicken money on me.

3 Q. Chicken money?

4 A. Yeah.

5 Q. And what happened? Did you give him the
6 chicken money that you had on you?

7 A. Yes.

8 Q. What happened then?

9 A. After that he wanted more than that. So
10 me and him went back to the house and got
11 everything I had in the house also.

12 Q. Tell us a little bit about that. How did
13 you get back to your house?

14 A. Walked back.

15 Q. When ---

16 a. He had a gun and made me walk back.

17 Q. What happened when you got back to your
18 house?

19 A. I went in the room and got everything I
20 had in there, money, drugs and all that, gave
21 it to him.

22 Q. Because that's what he wanted, money and
23 drugs; is that correct?

24 A. Correct.

25 Q. Were you in the business back then?

1 A. Yes, sir.

2 Q. So what did you give him?

3 A. The drugs I had in the house and the money
4 I had in the house.

5 Q. At any time during this incident did he
6 threaten you in any way?

7 A. Well, yeah, when we was on the street he
8 threatened me.

9 Q. What did he say to you on the street?

10 A. If I didn't give him what I had he was
11 going to kill me.

12 Q. He was going to kill you?

13 A. Yes.

14 Q. What happened after you gave him the drugs
15 that you had back at your house?

16 A. He left.

17 Q. What did you do?

18 A. Grabbed my father's gun and shot at him.

19 Q. Where did you shoot at him from?

20 A. Off the porch.

21 Q. And were you able to hit him?

22 A. No, sir.

23 Q. Why is that?

24 A. My mother, she grabbed me while I shot at
25 him.

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

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

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

9 PROFFER EXAMINATION CONTINUED

10 BY BRUCE DURANT:

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

13 A. Yes.

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

15 A. He was friends with friends.

16 Q. And who were those friends?

17 A. Family friends.

18 Q. Who were those friends?

19 A. Anderson's.

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

23 A. Um-humm.

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

25 THE WITNESS: Yes, sir.

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

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

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

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

18 PROFFER EXAMINATION

19 BY MR. CARROLL:

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

23 A. Yes.

24 Q. And this had taken place at night?

25 A. Yes.

1 Q. And whoever walked up behind you came up
2 from behind you, right?

3 A. Yeah.

4 Q. I mean out of the dark?

5 A. It was dark, yeah, but I still recognized
6 him.

7 Q. And when you filled out your drop charge
8 form you indicated that you couldn't say it was
9 Willie D that did it; right?

10 A. I said that on the drop form; yes, I did.

11 Q. Now, that form was a form that was
12 provided by the Solicitor's Office, correct?

13 A. Correct.

14 Q. And the prosecutor is ultimately the one
15 who decided not to prosecute the case; right?

16 A. I'm not sure what happened.

17 Q. But you never were invited down to court
18 to participate in any event; were you?

19 A. No.

20 Q. And you say this was over drugs?

21 A. Yeah, I admitted it.

22 Q. And you had a lawyer that you talked with
23 about this when you decided to drop the charge?

24 A. No.

25 Q. Were you charged with anything at the

1 time?

2 A. I think I probably was, yeah.

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

5 A. Yeah, Anderson took me down there.

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

9 A. Yes.

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

13 A. Not really, no.

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

16 A. Yes.

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

20 A. Correct.

21 Q. And you were doing that, right?

22 A. Correct.

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

25 A. Yes.

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

3 A. Yes.

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

7 A. No.

8 Q. That charge has been dismissed?

9 A. Yes.

10 Q. When was that?

11 A. Last week some time.

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

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

16 BRUCE DURANT: Just a couple.

17 PROFFER REDIRECT EXAMINATION

18 BY BRUCE DURANT:

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

21 A. Yes, sir.

22 Q. It occurred in a garage?

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

24 Q. And came back to your house?

25 A. Yes.

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

3 A. Yes.

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

6 A. No.

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

10 A. No, it wasn't.

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

13 A. The Andersons.

14 Q. Do you remember their first names?

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

17 BRUCE DURANT: I have nothing
18 further.

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

21 MR. BLOOM: Yes, sir.

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

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

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

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

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

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

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

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

14 THE COURT: Anything further?

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

25 Everything that Mr. Bloom has stated

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

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

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

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

14 THE COURT: Any objection?

15 MR. BLOOM: No, sir.

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

18 (WITNESS STEPS DOWN)

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

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

1 bring in our jury.

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

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

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

8 BRUCE DURANT: We would call Leon
9 Fludd.

10 (WITNESS TAKES STAND)

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

14 DIRECT EXAMINATION

15 BY BRUCE DURANT:

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

19 A. Fifty-five.

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

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

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

25 A. Yes.

1 Q. Are you employed?

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

4 Q. What are you self-employed doing?

5 A. Carpentry.

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

7 A. Cook.

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

12 A. Yes. Three guys came up.

13 Q. Who were you with?

14 A. Who was I with?

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

17 A. Right.

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

20 A. I don't know.

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

23 A. Three guys came up.

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

1 A. No.

2 Q. And what happened after they came up?

3 A. They started robbing us, saying, you know,
4 'give it up.'

5 Q. Where were you'all in the Park at the
6 time?

7 A. Sitting on one of the stands at the
8 basketball court.

9 Q. What did they do after they came up and
10 said "give it up"? Were they armed?

11 A. Yeah.

12 Q. And what were they armed with?

13 A. I can't -- don't remember.

14 Q. Were they pistols? Rifles? What?

15 A. Pistols, I'm pretty sure.

16 Q. Pardon?

17 A. Kind of short guns.

18 Q. What happened specifically that you
19 remember? What happened to you?

20 A. One of them came up to me. I had some a
21 gold chain on and he told me to empty out my
22 pockets. I emptied my pockets, he grabbed the
23 chain and threw it on the ground.

24 Q. What was he doing with his gun?

25 A. He just had it, like walking around

1 telling everybody don't move and everything.

2 Q. Did he ever point the gun at you?

3 A. Yes.

4 Q. Did he threaten you in any way?

5 A. I mean, pointing a gun at me.

6 Q. That's pretty threatening?

7 A. Yes.

8 Q. So what happened after he popped the chain
9 off and was demanding money from you? Did you
10 have any money?

11 A. Yes.

12 Q. What did you do with your money?

13 A. Threw it on the ground.

14 Q. Just dropped it on the ground?

15 A. Yes.

16 Q. What did he do?

17 A. It was pretty quick after that. One of
18 the guys started running, so he started
19 running.

20 Q. Who started running?

21 A. Everybody that was on the Park.

22 Q. Everybody was getting robbed?

23 A. Right.

24 Q. And where did y'all run to?

25 A. On the Park. We started running.

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

2 A. I heard shots ring out.

3 Q. What were they shooting out?

4 A. At us.

5 Q. And how do you know that?

6 A. I heard the bullets fly past.

7 Q. Did the police show up?

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

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

14 A. Yes.

15 BRUCE DURANT: The Court's indulgence.

16 THE COURT: Certainly.

17 DIRECT EXAMINATION CONTINUED

18 BY BRUCE DURANT:

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

21 A. Yes, sir.

22 THE COURT: Cross examine, counsel.

23 CROSS EXAMINATION

24 BY MR. CARROLL:

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

1 to report a robbery; did you?

2 A. No.

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

7 A. Correct.

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

10 A. No.

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

14 A. No, sir.

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

17 A. I don't know.

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

20 A. Yes.

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

23 A. We were playing basketball and everything.

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

1 A. Right.

2 Q. Or gold chains, correct?

3 A. Right.

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

5 A. Right.

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

8 A. No.

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

11 THE COURT: Certainly.

12 CROSS EXAMINATION CONTINUED

13 BY MR. CARROLL:

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

16 A. Correct.

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

19 A. Right.

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

22 THE COURT: Redirect.

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

25 THE COURT: You may come down, Mr.

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1 Fludd.

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

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

6 MR. CARROLL: No, Your Honor.

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

9 (WITNESS STEPS DOWN)

10 THE COURT: Call your next witness,
11 please

12 SOLICITOR WILSON: Antonio Nelson.

13 (WITNESS TAKES STAND)

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

17 DIRECT EXAMINATION

18 BY SOLICITOR WILSON:

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

21 A. (Complies).

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

24 A. Yes.

25 Q. And I believe you testified that you had

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

3 A. Yes.

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

6 A. Teenage years.

7 Q. Teenage years?

8 A. (Affirmative nod).

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

11 A. Mitchell Park.

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

13 A. The west side.

14 Q. Is that near your house?

15 A. Yes.

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

17 A. Yes.

18 Q. Which is also near Spring?

19 A. Yes.

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

22 A. Yes.

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

1 A. Yes.

2 Q. Tell the jury who was with you that day
3 when you committed that armed robbery.

4 A. Me, Will and Popcorn.

5 Q. Will? That's the Defendant?

6 A. Yes.

7 Q. Back then, just a reminder, you were not
8 in a wheelchair. Is that right?

9 A. No.

10 Q. About how old were you when you'all did
11 this armed robbery on Hester Park?

12 A. Eighteen.

13 Q. Were you and Will about the same age?

14 A. No.

15 Q. Was he older or younger?

16 A. He's younger.

17 Q. How much younger?

18 A. About a year.

19 Q. And you said Popcorn was with you?

20 A. Yes.

21 Q. And back then was his real name Derek
22 Jenkins?

23 A. Yes.

24 Q. Before it got changed to Rashid Malik?

25 A. Yes.

1 Q. Has he always been "Popcorn"?

2 A. Yes.

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

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

9 Q. If you wanted to do what?

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

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

15 A. Will.

16 Q. All right.

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

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

21 A. Styversent Street.

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

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

1 Q. Okay.

2 A. And we went by the park and when we got
3 out there ---

4 Q. Let's stop for a minute. Did you have a
5 gun on you?

6 A. Yes.

7 Q. Did Popcorn have a gun?

8 A. No.

9 Q. Did Will have a gun?

10 A. Yes.

11 Q. So two of you have guns and Popcorn
12 doesn't.

13 A. Yes. One of the guns didn't work, though.

14 Q. Who had the gun that didn't work?

15 A. Me.

16 Q. Why did you have a gun that didn't work?
17 What good was that?

18 A. Something to show to people. We got out
19 there and I remember that there was a lot of
20 young boys out there, brothers out that night.
21 You know, they don't need to be out here. But
22 we told them to wait, that nobody was to leave.
23 One of the boys started running and Will run up
24 on him with the pistol and chopped him with the
25 pistol.

1 Q. He did what?

2 A. (No verbal response).

3 Q. He chopped?

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

6 Q. Where did he hit him?

7 A. I guess in his head.

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

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

12 Q. They were trying to scatter?

13 A. Yes.

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

15 A. Like fifteen people.

16 Q. Fifty or fifteen?

17 A. Fifteen.

18 Q. And they started to scatter?

19 A. Yes.

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

22 A. With who?

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

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

1 to stop.

2 Q. How many of them stopped?

3 A. Everybody.

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

6 A. Yeah.

7 Q. Who was supposed to do what?

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

10 Q. You were standing there with the gun?

11 A. Yes.

12 Q. Did Popcorn do his part?

13 A. Yeah.

14 Q. Do Will do his part?

15 A. Yeah.

16 Q. What happened?

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

22 Q. Who was he shooting at?

23 A. Huh?

24 Q. Who was he shooting at?

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

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

3 Q. Were you okay with him shooting?

4 A. Huh?

5 Q. Were you okay with that?

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

7 Q. What were you running from?

8 A. The cops.

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

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

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

17 A. No.

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

20 A. Yes.

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

23 A. Maybe.

24 Q. Did you steal any jewelry?

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

1 Q. You didn't touch anybody.

2 A. (Negative gesture).

3 Q. How much money did you'all get out of that
4 robbery?

5 A. No more than thirty or forty dollars.

6 Q. So that was \$30 or \$40 to be split between
7 the three of you?

8 A. No, I didn't ask for none.

9 Q. I thought the whole reason you went to go
10 do the robbery ---

11 A. We didn't have enough to split it.

12 Q. Antonio, you somehow didn't get charged in
13 that; did you?

14 A. No.

15 Q. Popcorn got charged?

16 A. Yes.

17 Q. And went to prison for it, right?

18 A. Yes.

19 Q. And Will got charged and went to prison,
20 right?

21 A. Yes.

22 Q. How did you manage not to get charged?

23 A. I didn't have a record. There was another
24 guy who has the exact same name as me, he got
25 charged with it.

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

3 A. I don't know.

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

6 A. Yes.

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

9 A. Not to my knowledge.

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

14 A. I got shot.

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

17 A. Yeah, yeah, yeah.

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

19 A. Two months.

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

22 A. I got shot.

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

24 A. '95.

25 SOLICITOR WILSON: Beg the Court's

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1 indulgence.

2 THE COURT: Certainly.

3 DIRECT EXAMINATION CONTINUED

4 BY SOLICITOR WILSON:

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

8 A. No.

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

11 A. No.

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

14 THE COURT: Cross?

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

17 CROSS EXAMINATION

18 BY MR. CARROLL:

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

21 A. Yes.

22 Q. You had a gun?

23 A. Yes.

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

25 A. Yes.

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

4 A. Yes.

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

6 A. What?

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

8 A. (No verbal response).

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

12 A. Huh?

13 Q. You have been convicted of a crime.

14 A. I have been convicted of a crime?

15 Q. Yes.

16 A. No.

17 Q. Never?

18 A. No.

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

21 A. No.

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

24 THE COURT: Redirect, Solicitor?

25 SOLICITOR WILSON: No, sir.

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

3 (WITNESS STEPS DOWN)

4 THE COURT: Call your next witness.

5 SOLICITOR WILSON: Rashid Malik.

6 (WITNESS TAKES STAND)

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

10 DIRECT EXAMINATION

11 BY SOLICITOR WILSON:

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

14 A. Yes, ma'am.

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

17 A. Yes, ma'am.

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

20 A. I believe I was eighteen.

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

24 A. Yes, ma'am.

25 Q. And I believe you mentioned that you and

1 Will had been lifelong friends. Is that right?

2 A. Yes, ma'am.

3 Q. Where was it that you'all got to know each
4 other? What area of town?

5 A. Around the Spring Street area.

6 Q. Did you have family in that area at the
7 time?

8 A. Yes, ma'am.

9 Q. But you lived in North Charleston?

10 A. Yes, ma'am.

11 Q. So would you come downtown on occasion to
12 visit your family and see friends?

13 A. Yes, ma'am, every day or every other day.

14 Q. And is that when you got to know William
15 Dickerson?

16 A. Yes, ma'am.

17 Q. Were you'all pretty close?

18 A. Yes, ma'am.

19 Q. Let's go to November of 1993.

20 Specifically, do you recall being involved in
21 an armed robbery on Hester Park on November 5th
22 of 1993?

23 A. Yes, ma'am.

24 Q. Tell the jury how it was that you became
25 involved in this armed robbery.

1 A. William Dickerson and I and another guy --

2 -

3 Q. Who's the other guy?

4 A. Antonio Nelson. We agreed to go to Hester

5 Park and rob some young guys who were selling

6 crack at the time.

7 Q. Did you have a gun?

8 A. No, ma'am.

9 Q. Who had a gun?

10 A. William Dickerson and Antonio Nelson had a

11 gun. I was just supposed to be the guy to grab

12 the money out of the guys' pockets while they

13 were holding guns on the guys.

14 Q. What happened when you got down there?

15 Did you see some potential targets?

16 A. Yes, ma'am.

17 Q. How many of them did you see?

18 A. At least ten guys were out there on the

19 Park that night. We walked out and we were
20 supposed to put on our masks and everything.

21 But I believe William knocked a guy with the

22 gun he had. He has a .22 and, uh, ---

23 Q. You were talking about your masks. You

24 were supposed to have on a mask?

25 A. Yes, but we didn't have time to put the

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1 masks on.

2 Q. What happened when you got out there? You
3 said you were supposed to check the pockets?

4 A. Yes.

5 Q. And the other two were going to hold the
6 guns. Is that how it unfolded?

7 A. Yes, ma'am. William, he ended up knocking
8 a guy.

9 Q. With what?

10 A. With a gun.

11 Q. Where?

12 A. In his face. And Antonio started to pull
13 the trigger, for no apparent reason his gun
14 grabbed. William let off a couple of shots.

15 Q. So Antonio's gun didn't fire?

16 A. No.

17 Q. After he did that, what did William do?

18 A. He fired his gun in he air.

19 Q. Did any of the victims shoot at you'all?

20 A. No, ma'am. I believe that William fired
21 his gun in the air because Tony's gun grabbed.
22 And I guess he just wanted the guys to know
23 that we meant business and we had fire power.
24 I picked a few pockets. We all picked a few
25 pockets and we ran and we left.

1 Q. Did you'all get any money?

2 A. A couple of bucks, a couple of chains and
3 all.

4 Q. Who got the chains?

5 A. I believe we all got chains. We didn't
6 get over a hundred dollars. The next night I
7 believe I got arrested, or maybe a couple of
8 days later.

9 Q. Did you end up pleading guilty?

10 A. Yes, ma'am.

11 Q. Did you go to prison?

12 A. Yes, ma'am.

13 Q. How about Will? Did he end up pleading
14 guilty?

15 A. Yes.

16 Q. And Antonio never got charged. Is that
17 right?

18 A. (Negative gesture), no.

19 Q. Did you cooperate with the police back
20 then and tell them who was involved?

21 A. Yes, ma'am.

22 SOLICITOR WILSON: That's all,
23 Your Honor.

24 THE COURT: Cross-examine?

25 MR. CARROLL: Thank you, Your

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3505

1 Honor.

2 CROSS EXAMINATION

3 BY MR. CARROLL:

4 Q. Antonio Nelson had a gun that night?

5 A. Yes, sir.

6 Q. And he was out there with you'all to rob
7 drug dealers?

8 A. Yes, sir.

9 Q. And he attempted to fire his weapon and it
10 clicked and wouldn't fire?

11 A. Yes.

12 Q. The business you ran back then was jacking
13 drug dealers; right?

14 A. Yes.

15 Q. You'all left businesses and so forth
16 alone. I think that's what you told the
17 police, right?

18 A. Right.

19 Q. Just drug dealers?

20 A. Right.

21 Q. Do you recall when you were initially
22 confronted by the police that you were at your
23 aunt's house?

24 A. Yes.

25 Q. But you had been involved?

1 A. Yes, sir.

2 MR. CARROLL: Nothing further, Your
3 Honor.

4 THE COURT: Redirect.

5 REDIRECT EXAMINATION

6 BY SOLICITOR WILSON:

7 Q. Who was in this business of jacking drug
8 dealers with you?

9 A. William Nelson and ---

10 Q. William who?

11 A. William Dickerson and Antonio Nelson.

12 SOLICITOR WILSON: That's all.

13 THE COURT: Recross?

14 MR. CARROLL: Nothing further,
15 Your Honor.

16 THE COURT: You may come down, Mr.
17 Malik.

18 (WITNESS STEPS DOWN)

19 THE COURT: Call your next witness.

20 BRUCE DURANT: John Scarborough.

21 (WITNESS TAKES STAND)

22 JOHN SCARBOROUGH, being duly sworn to
23 tell the truth, the whole truth and nothing but
24 the truth, testified, as follows:

25 DIRECT EXAMINATION

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1 BY BRUCE DURANT:

2 Q. Would you tell the jury where you work,
3 Mr. Scarborough?

4 A. I work for the Charleston County Sheriff's
5 Office.

6 Q. What do you do at the Charleston County
7 Sheriff's Office?

8 A. I'm a lieutenant over the traffic
9 division, school crossing guards, animal
10 control unit and also the dive team, the
11 underwater recovery team.

12 Q. How long have you been with the Sheriff's
13 Office?

14 A. Eleven years.

15 Q. Before being with the Sheriff's Office
16 where were you?

17 A. I worked with the City of Charleston
18 Police Department for thirteen years.

19 Q. Is that where you were working on May the
20 17th of 1996?

21 A. Yes, sir.

22 Q. What were you doing at the City Police
23 Department on that time -- on that day?

24 A. During that span I was assigned to the
25 foot patrol unit with three other guys and a

1 supervisor.

2 Q. That afternoon at approximately 3:00 p.m.
3 did you have the occasion to become involved in
4 an incident involving the Defendant, William
5 Dickerson?

6 A. Yes, I did.

7 Q. Why were you'all looking for Mr. Dickerson
8 that day?

9 A. Mr. Dickerson was wanted on some
10 outstanding warrants for armed robbery, ---

11 MR. BLOOM: Objection, Your Honor.

12 THE COURT: Sustained.

13 DIRECT EXAMINATION CONTINUED

14 BY BRUCE DURANT:

15 Q. We don't need to know -- just had
16 warrants. Is that correct?

17 A. Yes, there were warrants.

18 Q. Had you received any information regarding
19 his whereabouts?

20 A. Yes, sir.

21 Q. What information did you receive?

22 A. Myself and my partners had received
23 information from the dispatch that was actually
24 toned out, which means an emergency call, in
25 reference to Mr. Dickerson being at an

1 apartment located off of Spring Street.

2 Q. Did you'all proceed to that location?

3 A. Yes, sir, we did.

4 Q. How did you get there?

5 A. I was driving and my three partners were
6 with me, we were in a marked City of Charleston
7 Police car.

8 Q. And who were the three people who were
9 with you?

10 A. Ricky Russell, Carlos Cestedes and Gerald
11 Schratt.

12 Q. And what did you do when you go to -- do
13 you recall what the address was on Spring
14 Street? I know it's been a long time ago.

15 A. No, sir. It was an apartment.

16 Q. What did you do when you got to that
17 address on Spring Street?

18 A. We were in a marked car, so we parked down
19 the road a little bit. We exited the vehicle.
20 We walked in to that location.

21 Q. Did you check the residence, the apartment
22 that you had information that the Defendant was
23 at?

24 A. Yes, sir.

25 Q. What was the results of that?

1 A. The results, we knocked on the door, we
2 checked all the windows, everything around the
3 residence and everything was secure. All the
4 blinds were shut and we couldn't see anything
5 or hear anything around the residence.

6 Q. What did you'all do then?

7 A. We then notified our dispatch that we were
8 unable to make contact with him and we started
9 to fan out, going back toward the east side and
10 ---

11 Q. Were you'all able to locate him in any of
12 the surrounding businesses?

13 A. No, sir. We canvassed the area for quite
14 a while and were unable to locate him.

15 Q. What did you'all do then?

16 A. We then -- I went back and got the patrol
17 car and I went back to pick up my partners off
18 of Spring Street in one of the small little
19 clubs off right there off of Spring Street.

20 Q. And where did you go?

21 A. Where did we go?

22 Q. Yes.

23 A. Once I picked them up -- Spring Street is
24 a one-way street. I picked them up and we went
25 down towards Cummings. And as we proceeding

1 back down we were notified by then Corporal
2 Ricio, who is now a lieutenant with the City of
3 Charleston Police Department, that the suspect
4 was fleeing on a bicycle headed in the opposite
5 direction on Spring Street.

6 Q. Headed in y'all's direction?

7 A. Headed directly to us. He told us he was
8 coming right at us.

9 Q. What happened then?

10 A. We observed the suspect on a bicycle
11 coming towards us, at which time I ---

12 Q. What suspect?

13 A. The gentleman sitting right here.

14 Q. Mr. Dickerson, seated at the table here?

15 A. Yes, sir, minus the beard.

16 Q. Tell us what happened.

17 A. The suspect came towards us. He began to
18 angle across the roadway. He was wanted -- I
19 know what he was wanted for, but I can't go
20 into that detail, but he was considered
21 dangerous to us. At the time I was driving the
22 vehicle and I attempted to pull my vehicle in
23 front of him, at which time he made contact
24 with the front of my police car. He came off
25 of the bicycle, at which time my partner in the

1 passenger seat, which was Carlos Cestedes,
2 exited the cruiser.

3 Q. What happened when Officer Cestedes exited
4 the cruiser?

5 A. Officer Cestedes exited the cruiser and
6 attempted to tackle the suspect around the
7 waist, like a football tackle, was attempting
8 to take his legs out from under him and tackle
9 him.

10 Q. And what happened then?

11 A. The gentlemen -- I use that term loosely
12 -- picked out, he pulled a gun from his
13 waistband and put it up to my partner's head.

14 Q. Did he present the firearm toward anyone
15 else?

16 A. Well, he put it up to his head and we
17 yelled "55" -- which means gun. Carlos was
18 unable to see him because Carlos had his head
19 down. Carlos, when he heard us yell "55" he
20 pushed him away, at which time we had our guns
21 drawn, our duty weapons. We were in full
22 uniform. The suspect then, as he pushed him
23 away, then in fact brandished the gun at us and
24 we didn't have a clear shot at him at that time
25 because Cestedes was still in front of him.

1 Q. What did Mr. Dickerson do at that time?

2 A. Mr. Dickerson attempted to flee down
3 Spring Street in the opposite direction. He
4 was running on the left-hand side of the road.
5 He was running back toward -- just to use a
6 reference point -- towards King Street and that
7 area. We gave foot pursuit, myself and
8 Schrott. I didn't know at the time where my
9 other partners were at, I didn't know if Carlos
10 was still down or what. I really didn't know
11 what his status was, if he had been shot, but
12 we were after Dickerson.

13 Q. Where did you'all chase Mr. Dickerson?

14 A. Chased Mr. Dickerson the opposite way on
15 the left-hand side. He made some maneuvers
16 around fences and what-not. Being that he
17 still had a gun in his hand. We were trying to
18 keep our distance. We were yelling at him the
19 whole time, "drop the gun." He suddenly came
20 back out on the sidewalk still running. He
21 eventually crossed over Spring Street and
22 attempted to run between two houses. We gave
23 chase still. When he ran up between the two
24 houses he attempted to point the gun and his
25 arm, in sort of this motion (demonstrating) and

1 attempted to bounce himself over a rather high
2 privacy fence; at which time his midsection
3 made contact with the top of the fence and the
4 fence came collapsing down with him laying on
5 the other side of the fence in the backyard of
6 a residence.

7 Q. Was it a fenced-in back yard?

8 A. Yes, it was.

9 Q. What happened after he came down --
10 knocked the fence down and was in the back
11 yard?

12 A. He came down and myself and Schratt came
13 running up and were in a position with our
14 firearms still out. He came up and he was kind
15 of dazed from falling over. He immediately
16 turned the gun on us, pointed his weapon at us
17 and we opened fire on him.

18 Q. Who opened fire on him?

19 A. Myself and Schratt.

20 Q. And what happened then?

21 A. He was struck. We didn't know where but
22 he was struck and went down. As he went down,
23 our protocol is to approach a suspect with
24 caution. The gun fell very close to him. We
25 weren't sure if he was out or not, at which

1 time we went up to him and we handcuffed the
2 suspect.

3 Q. Did he continue to resist in any way?

4 A. The suspect at that time -- I don't know
5 if he was playing possum or what he was doing,
6 but he acted as if he was unconscious. We
7 attempted to -- once we got one handcuffs on
8 him he began to flail around and he noticed
9 that there was a crowd coming up behind us, of
10 the neighborhood people that lived in that
11 neighborhood. And he started using -- I don't
12 know if you want me to use profanity but I can
13 tell you exactly what he said.

14 Q. You don't need to do that.

15 A. He began to yell at the crowd, a lot of
16 profanity, trying to get them to come and get
17 us and attack us, the police officers that were
18 there, to get him away from us so that he could
19 flee again.

20 Q. How many times was he shot? Do you know?

21 A. At the time I was not sure. The protocol
22 of the agency is once a suspect is shot and
23 other units have gotten there to secure him and
24 take him to a patrol car, take him to
25 headquarters for debriefing.

1 Q. Did you find out later how many times he'd
2 been shot?

3 A. I learned later on he was struck twice,
4 once in the chest and once in the side of the
5 face. It came down the side of his face and
6 struck his ear.

7 Q. Do you know where your partner, Mr.
8 Russell is today, Ricky Russell?

9 A. Mr. Russell is a DEA Agent with the
10 federal government stationed in Charlotte,
11 North Carolina, the last time I talked to him.

12 Q. How about Darrell Schratt, do you know
13 where he is?

14 A. Darrell Schratt works for Blackwater and
15 he's over in Afghanistan.

16 BRUCE DURANT: Court's indulgence.

17 THE COURT: Certainly.

18 DIRECT EXAMINATION CONTINUED

19 BY BRUCE DURANT:

20 Q. Would you please answer any questions the
21 defense has for you.

22 A. Yes, sir.

23 THE COURT: You may cross examine.

24 MR. CARROLL: May it please the
25 Court, Your Honor.

1

CROSS EXAMINATION

2

BY MR. CARROLL:

3

Q. Lieutenant Scarborough, that day when now

4

Corporal Ricio locates Mr. Dickerson, Mr.

5

Dickerson's immediate reaction was to run?

6

A. He was on a bicycle, sir.

7

Q. But he jumped on a bicycle and took off, I

8

believe you said going -- I guess what we might

9

say the wrong way on Spring Street?

10

A. Exactly. I don't know if he observed him

11

getting on the bicycle or if he saw him coming

12

toward him on a bicycle.

13

Q. Then Corporal Ricio got on the radio and

14

said, "I've found him. He's on a bike headed

15

up Spring Street." Correct?

16

A. Correct.

17

Q. And you and those in your marked police

18

cruiser were on Spring Street heading with the

19

flow of traffic, which would have been opposite

20

him?

21

A. Yes, sir.

22

Q. And the bike and the car collided?

23

A. Yes, sir.

24

Q. And when the bike and the car collided, as

25

is always the case, the guy on the bike lost

1 and hits the ground; correct?

2 A. I don't know if it's always the case but
3 yes, sir.

4 Q. He was on a bicycle?

5 A. Yes, sir.

6 Q. And you'all were in a police car.

7 A. Yes, sir.

8 Q. And do you recall getting information to
9 indicate that some folks described this as a
10 gun falling out of his pants when he hit the
11 ground?

12 A. No, sir.

13 Q. And once he jumped up he started running
14 again; correct?

15 A. He was apprehended rather quickly by
16 Cestedes.

17 Q. I believe you testified a moment ago you
18 didn't know whether Officer Cestedes had been
19 shot or not?

20 A. Yes, sir.

21 Q. You didn't hear a gunshot; did you?

22 A. No, sir. But I saw his motions at the
23 time, and his motions were exactly to put the
24 gun up to his head and pulled it just as if to
25 pull the trigger on a gun. Whether or not that

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1 gun fired or not, at the time I did not know.

2 Now I do.

3 Q. And, in fact, he was not shot?

4 Thankfully.

5 A. No, sir.

6 Q. And he continued to run away until he ran
7 into this fence and tried to clear it and ended
8 up on the ground?

9 A. Yes, sir.

10 Q. I thought I understood you to say that he
11 was hit I the chest and in the ear. Isn't it
12 true that there was a grazing blow on his
13 shoulder?

14 A. Sir, I don't have anything to do with
15 forensics. Like I said, I was not there. I
16 was just going by what I was told.

17 Q. But these turned out not to be life-
18 threatening injuries; correct?

19 A. By his actions, definitely. They were not
20 life-threatening by the way he was acting.

21 Q. I'm talking about ultimately. The police
22 arrested him and took him to jail.

23 A. Eventually, yes, sir. After he was in the
24 hospital, I guess.

25 Q. Just briefly, correct?

1 A. I have no knowledge of that.

2 Q. Fair enough. I suppose as part of any
3 investigation involving the discharge of a
4 police weapon there was lots of statements
5 taken?

6 A. Yes, sir.

7 Q. And you, in fact, gave your statement as a
8 part of that investigation?

9 A. Yes, sir.

10 Q. And that's a standard part of that kind of
11 thing, to explain why you fired your weapon.

12 A. I never fired my weapon until then, but
13 yes, sir.

14 Q. When you gave that statement that day you
15 gave a full and complete account as you
16 recalled; correct?

17 A. To the best of my knowledge, yes, sir.

18 Q. And here today you've testified about him
19 yelling at a crowd to "get the police." You
20 didn't include that in your statement, did you?

21 A. I'm not sure, sir. I don't have it in
22 front of me.

23 Q. I'm going to hand you what's being marked
24 as ---

25 COURT REPORTER: Defendant's Exhibit

1 Number 15.

2 (SO ENTERED AS DEFENDANT'S EXHIBIT 15)

3 CROSS EXAMINATION CONTINUED

4 BY MR. CARROLL:

5 Q. Lieutenant, I'd simply like for you to
6 read that over and tell me if that refreshes
7 your recollection.

8 A. (Upon review) -- okay.

9 Q. My question was back when you provided
10 that statement the account about yelling to the
11 crowd to get the police was not included; was
12 it?

13 A. If that statement is not included, I
14 cannot tell you that it was not included in
15 another report or something of that nature.
16 But I can assure you that is what transpired.
17 It does state in here -- if I may.

18 Q. Certainly.

19 A. It does say in here that he was resisting.
20 When I didn't go into detail, I -- I assure you
21 that this was one of the biggest events of my
22 career. I'm sure in this report, when I did
23 this, I was under a lot of duress, sir.

24 Q. I'm certain you were. And you were also
25 closer in time to the event that day than you

1 are now; right?

2 A. Yes, sir, if you want to say it that way.

3 Yes, sir.

4 MR. CARROLL: I don't have any further
5 questions.

6 THE COURT: Redirect?

7 BRUCE DURANT: No, sir.

8 THE COURT: You may come down Mr.
9 Scarborough.

10 THE WITNESS: Thank you, sir.

11 BRUCE DURANT: I would ask that Lt.
12 Scarborough be excused, Your Honor

13 MR. CARROLL: No objection.

14 THE COURT: You are also free to
15 leave.

16 THE WITNESS: Thank you.

17 THE COURT: Yes, sir.

18 (WITNESS STEPS DOWN)

19 BRUCE DURANT: The state would call
20 Carlos Cestedes.

21 (WITNESS TAKES STAND)

22 CARLOS CESPEDES, being duly sworn to
23 tell the truth, the whole truth and nothing but
24 the truth, testified, as follows:

25 DIRECT EXAMINATION

1 BY BRUCE DURANT:

2 Q. Good morning, Mr. Cespedes. How are you?

3 A. Good, sir.

4 Q. Could you tell the jury what you do for a
5 living?

6 A. I'm currently employed with the Federal
7 Air Marshal's Service.

8 Q. How long have you been a Federal Air
9 Marshal?

10 A. From 2002 to the present.

11 Q. And what did you do before you became an
12 Air Marshal?

13 A. I was employed with the Border Patrol.

14 Q. Where were you with the Border Patrol?

15 A. In a town called McCallum, Texas, south
16 Texas.

17 Q. And how long were you with the Border
18 Patrol?

19 A. From early '98 to early 2002.

20 Q. And prior to that where were you employed
21 in law enforcement?

22 A. I was here in the fine City of Charleston.

23 Q. With what agency?

24 A. With the Charleston Police Department.

25 Q. And is that where you were employed on May

1 the 17th of 1996?

2 A. I was.

3 Q. What were you doing at that time at the
4 City Police Department? What was your job?

5 A. I was assigned to a four-man tactical unit
6 under the foot patrol division.

7 Q. That afternoon at around 3:00 p.m. did you
8 have the occasion to become involved in an
9 incident regarding the defendant in this case,
10 Mr. William Dickerson?

11 A. Yes, sir.

12 Q. And I believe you'all had outstanding
13 warrants on him. Is that correct?

14 A. Yes, if I remember correctly, we had ---

15 Q. We don't need to know what they are, just
16 that you had outstanding warrants?

17 A. Yes.

18 Q. And did you'all receive information
19 concerning his potential whereabouts that day?

20 A. Yes.

21 Q. And where was that?

22 A. 115-B Spring Street.

23 Q. How did you'all get to that location?

24 A. Again, we were in a marked unit, and we
25 parked slightly down the block.

1 Q. And what did you'all do upon arriving at
2 the address of 115-B Spring Street?

3 A. About five officers showed up and we set a
4 small perimeter around the apartment complex.

5 Q. And what happened then?

6 A. It was only an arrest warrant so we
7 couldn't make entry. We knocked, tried to
8 cover all the exits and basically tried to make
9 contact with the suspect. No answer.

10 Q. And there was no response at 115-B Spring?

11 A. No.

12 Q. What did you'all do at that time?

13 A. There's a few businesses around the area.
14 We tried to see if maybe he was in the area.
15 There's a small bar across the street, a
16 restaurant, a convenience store, a laundrymat.
17 We made a search of the area.

18 Q. Who were your partners at that time on
19 this four-man squad?

20 A. It was Officer Scarborough, Officer
21 Schratt and Officer Russell.

22 Q. And yourself?

23 A. Yes, sir. Officer Ricio also was
24 involved.

25 Q. What happened after you'all were unable to

1 locate him in any of these surrounding
2 businesses?

3 A. Again, we looked around the area. Officer
4 Scarborough parked the vehicle a good block
5 away. He'd retrieved the vehicle and was
6 coming to pick us up.

7 Q. And what happened after he picked up the
8 three of you'all?

9 A. Right around the time he was picking us up
10 Officer Ricio was in another vehicle, it came
11 over the radio that the suspect was back on the
12 scene and he was heading our way.

13 Q. What was his mode of transportation?

14 A. Apparently, Officer Ricio had passed the
15 actual premises and observed him exiting the
16 area on a bicycle.

17 Q. And he was headed in you'all's direction?

18 A. Yes. We were headed east on Spring
19 Street, a one-way street, and he was coming the
20 opposite direction.

21 Q. What happened then?

22 A. He literally collided with the vehicle.

23 Q. Tell us about that. Who is "he?"

24 A. The suspect, Mr. Dickerson.

25 Q. Do you see him in the courtroom today?

1 A. I do.

2 Q. And would you point him out to the jury?

3 A. The gentleman on the far side of the
4 table.

5 Q. The one with the beard?

6 A. Yes, sir.

7 Q. So he collided?

8 A. Officer Scarborough was driving and trying
9 to cut him off and they then collided.

10 Q. What happened after the car and the
11 bicycle collided?

12 A. I was in the rear right passenger's side
13 with the door already halfway open. I was the
14 first one out of the vehicle. He bounced off
15 the front portion of the vehicle when he came
16 off his bicycle. He kind of hopped along like
17 either trying to get away on the bicycle or run
18 and hop off the bike. And I caught him in that
19 motion basically.

20 Q. How did you -- were you able to put your
21 hands on him?

22 A. Yes, sir. I went to tackle him and was in
23 an awkward position because the bicycle was in
24 between. So I went to tackle him and got hands
25 on him around his waist area, but he backed off

1 a little bit. As he backed off he angled the
2 bicycle essentially in a sideways position,
3 which extended me further out. At that angle
4 I got lower and my positioning was getting
5 lower on his body. I didn't have a good hold
6 on him. Do you want me to keep going?

7 Q. Sure. Just tell us what happened.

8 A. As he was going to back away he pulled out
9 a firearm from his right side, from his
10 waistband or a front right pocket. I really
11 couldn't tell you exactly where he pulled it
12 out from.

13 Q. What did that firearm look like?

14 A. It was an automatic.

15 Q. I hand you what's previously been marked
16 as State's Exhibit Number 145 for
17 identification and ask you if that appears to
18 be the weapon that he had?

19 A. Yes, sir.

20 Q. What happened when he pulled out this
21 weapon?

22 A. Again, being at the angle I was in --
23 normally, I would like to sandwich the handgun
24 to his body so he wouldn't be able to pull it
25 out or do any damage with it. But at the angle

1 I was in, I was totally off balance and I had
2 to let go of him. When I did, he continued
3 with the extension of the weapon and he had it
4 right to my head, something like two inches
5 from my face.

6 Q. What happened then?

7 A. He pulled the trigger, I heard it click.
8 It didn't fire, obviously. I saw the
9 anticipation of the shot, basically, the hand
10 jerk forward and -- I knew that he was going to
11 fire that weapon. I let go of him complete,
12 fell basically on my butt and aimed it on him.
13 I heard "gun, gun, gun" from the rest of the
14 police officers. You can tell there was a lot
15 of going on, there was a traffic, this was a --
16 -

17 Q. In a very short period of time.

18 A. Two seconds max. Two or three seconds
19 max. But I heard the officers behind me
20 calling out "weapons, weapons" -- alerting each
21 other, their weapons were out. After he
22 clicked on me, he pointed up to the other
23 officers who were probably eight to ten feet
24 away. They were out of the vehicle but I don't
25 know if they were already moving forward, they

1 were behind me. So basically I'm in the line
2 of fire at that point. I dropped down and his
3 hand goes up at the office officers, then took
4 off running at that point.

5 Q. Who did?

6 A. The suspect.

7 Q. And where did he run?

8 A. He ran in the opposite -- ran across the
9 street, opposite the traffic, kind of at an
10 angle, and ended up in the yard of 101 Spring
11 Street, a long driveway-type of yard.

12 Q. Were you in pursuit at that time?

13 A. Yes.

14 Q. Who was ahead of you?

15 A. I would say Schratt and Scarborough were
16 ahead of me. I was the third to -- I'd got up
17 pretty quick.

18 Q. What happened at 101 Spring Street?

19 A. At 101 Spring Street, at the far end of
20 the yard or driveway is a fence about four to
21 five feet tall, a wooden fence. Mr. Dickerson
22 attempted to go over it, he essentially
23 collapsed it by the weight of his body, the
24 fence. So we couldn't just jump it right after
25 him. It now became an obstacle for us. He

1 went over that fence and realized he didn't
2 have anywhere else to go because the whole yard
3 beyond that fence was also fenced off.

4 Q. Right.

5 A. When we got to the fence he then turned
6 around and basically pointed his weapon at us.
7 We told him "drop the weapon, drop the weapon."
8 He brought it up to an aiming point and Officer
9 Scarborough and Officer Schratt fired off two
10 rounds, one round each.

11 Q. One round each?

12 A. Yes, sir.

13 Q. And what happened? Did you shoot?

14 A. I did not. No, I was aimed in but I kind
15 of had cover, I was safe at the time so I
16 didn't shoot.

17 Q. What happened after Officers Scarborough
18 and Schratt shot?

19 A. I thought he took a shot. He dropped. I
20 couldn't see where it actually struck him, but
21 it knocked him out completely and later I was
22 told he'd hit him somewhere on the side of his
23 head. When the shot went out he definitely
24 dropped that quick.

25 Q. What happened after that?

1 A. I was the first one over the fence at that
2 point, and I just remained aimed in on him. I
3 thought he was dead or injured or what-have-
4 you. The body was in a funny position where he
5 had his arms kind of back in this fashion, and
6 the firearm was still close. So when I went up
7 to the defendant, I wanted to secure the
8 weapon. Before I got the weapon he started
9 squirming around again.

10 Q. What do you mean, "squirming around?"

11 A. He started moving around. He wasn't
12 completely compliant at the time. I said,
13 "don't move, don't move," and as we struggled
14 to handcuff. I handcuffed him and we secured
15 the weapon at that point.

16 Q. I believe he ended up having been shot
17 twice. Is that correct?

18 A. Right.

19 BRUCE DURANT: Court's indulgence.

20 THE COURT: Certainly.

21 DIRECT EXAMINATION CONTINUED

22 BY BRUCE DURANT:

23 Q. Please answer any questions Mr. Carroll
24 may have for you.

25 A. Yes, sir.

1 THE COURT: You may cross-examine.

2 MR. CARROLL: May it please the Court,

3 Your Honor.

4 CROSS EXAMINATION

5 BY MR. CARROLL:

6 Q. Officer Cestedes, when Officer Ricio made
7 you aware that he had found Mr. Dickerson, Mr.
8 Dickerson was at that point on a bicycle riding
9 the wrong way up Spring Street?

10 A. That's correct. Yes, sir.

11 Q. And you and Officer Scarborough and others
12 were in a cruiser coming down Spring Street
13 with the flow of traffic?

14 A. Correct.

15 Q. And the bicycle and the police car
16 collided?

17 A. Yes, sir.

18 Q. And did I understand you correctly to say
19 that it didn't knock him off the bike?

20 A. He kind of bounced off the vehicle and was
21 still kind of halfway on the bike.

22 Q. Do you remember hearing anything of
23 reports that he had fallen down and a gun
24 dropped out of his waistband?

25 A. No.

1 Q. After the collision he continued on
2 running; correct?

3 A. After the collision?

4 Q. Yes.

5 A. After brandishing the weapon, yes.

6 Q. Here today you told us about a component
7 of this story that's not been mentioned
8 previously. And that is that you heard a
9 click.

10 A. (Affirmative nod).

11 Q. Now, back in 1996 there was a pretty
12 thorough investigation of this incident;
13 correct?

14 A. (No verbal response).

15 Q. A thorough investigation?

16 A. Yes, sir. But I wasn't a part of the
17 investigation. I wrote my report, or my
18 particular portion of the narrative.

19 Q. All right. There were multiple officers
20 involved because, number one, it's serious when
21 any suspect has a gun; correct?

22 A. Correct.

23 Q. It's serious when a suspect points a gun.

24 A. Correct.

25 Q. It's serious when a suspects flees when

1 you're trying to apprehend him, and it's really
2 serious when anybody attempts to shoot a police
3 officer; correct?

4 A. Correct.

5 Q. And so when the investigation was ongoing
6 is it fair to say that two things were being
7 looked at? One, the use of force by the
8 officers involved, is that correct?

9 A. That's correct.

10 Q. And, number two, the allegations related
11 to what Mr. Dickerson was charged with as a
12 result of this, resisting arrest with a deadly
13 weapon and I guess assault-with-intent-to-kill.

14 A. Yes, sir.

15 Q. So when you sat down to write your
16 statement, you included the part about looking
17 for Mr. Dickerson. Is that fair to say?

18 A. Yes, sir.

19 Q. And you included the part about Corporal
20 Ricio seeing him being to ride his bike on
21 Spring Street; correct?

22 A. Yes, sir.

23 Q. And you included the part about the car
24 and the bicycle colliding; correct?

25 A. Yes, sir.

1 Q. And you included the part about seeing Mr.
2 Dickerson with a handgun; correct?

3 A. Yes, sir.

4 Q. However, you did not include anything
5 whatsoever about hearing a gun click. Is that
6 true?

7 A. That's correct, sir.

8 Q. Mr. Dickerson continued to run until he
9 was shot by Officers Scarborough and Schratt;
10 correct?

11 A. Correct.

12 Q. And he fell down in the yard and that
13 ended the pursuit. Are you aware that the
14 bullets basically grazed one ear and one
15 shoulder?

16 A. Yes.

17 Q. They weren't life-threatening injuries,
18 but nevertheless they knocked him down and he
19 was thereafter apprehended; right?

20 A. Correct.

21 Q. And subsequently plead guilty to his
22 conduct in this case, is that right? Are you
23 aware of that?

24 A. Yes, sir.

25 THE COURT: Redirect?

1 BRUCE DURANT: No, sir.

2 THE COURT: Thank you, sir. You may
3 come down.

4 BRUCE DURANT: I would ask that the
5 witness be excused.

6 THE COURT: Any objection to the
7 witness being excused, Mr. Carroll?

8 MR. CARROLL: None, Your Honor.

9 THE COURT: You are also free to
10 leave, sir.

11 (WITNESS STEPS DOWN)

12 BRUCE DURANT: The State would
13 call Jeff Miller. May we approach?

14 THE COURT: Sure.

15 (BENCH CONFERENCE)

16 (WITNESS TAKES STAND)

17 JEFFREY MILLER, being duly sworn to
18 tell the truth, the whole truth and nothing but
19 the truth, testified, as follows:

20 DIRECT EXAMINATION

21 BY BRUCE DURANT:

22 Q. Good afternoon, Mr. Miller. How are you
23 today?

24 A. Good.

25 Q. I believe you've already been introduced

1 to our jury, but please refresh their memory as
2 to what you do for a living.

3 A. I'm a crime scene tech with the City of
4 Charleston, and I've been with the police since
5 1985.

6 Q. And in that capacity did you have the
7 occasion to respond to 101 Spring Street on May
8 17th of 1996 in reference to a shooting
9 involving some police officers and the
10 Defendant, William Dickerson?

11 A. Yes, I did.

12 Q. What did you do at the scene?

13 A. I responded to take photographs and
14 collected the evidence that was lying on the
15 ground.

16 Q. In that regard I hand you what's
17 previously been marked as State's Exhibit
18 Numbers 144 and 145 and ask if you recognize
19 those photos?

20 A. Yes, I do.

21 Q. What are those photographs of?

22 A. They are two photographs showing the gun
23 that I picked up off the ground.

24 Q. And that was at 101 Spring Street?

25 A. Yes, in the back yard.

1 Q. Does that fairly and accurately depict the
2 weapon that you collected that day?

3 A. Yes, it does.

4 BRUCE DURANT: Your Honor, we
5 would offer 144 and 145 into evidence, if there
6 is no objection.

7 THE COURT: Any objection?

8 MR. CARROLL: No objection, Your
9 Honor.

10 THE COURT: Without objection, 144
11 and 145 are admitted, each being a photograph.

12 (SO ENTERED AS STATE'S EXHIBIT 144)

13 (SO ENTERED AS STATE'S EXHIBIT 145)

14 DIRECT EXAMINATION CONTINUED

15 BY BRUCE DURANT:

16 Q. So did you actually take that gun into
17 evidence?

18 A. Yes, I did.

19 Q. It's not still in existence; is it?

20 A. I don't think so.

21 Q. I believe it was destroyed. Is that
22 correct?

23 A. Yes, sir.

24 Q. Was that pistol identified as one being
25 carried by the Defendant, William Dickerson?

1 A. Yes, sir.

2 Q. And what was the make of the pistol?

3 A. It was a Star nine millimeter.

4 Q. Did you record the serial number at the
5 time?

6 A. Yes. The serial number was 318320.

7 Q. And what did you do with that pistol after
8 taking it into evidence?

9 A. I transported it to the crime scene
10 office, and in doing so I unloaded the gun to
11 be sure it was safe.

12 Q. Tell us a little bit about that. What did
13 you have to do to unload the gun?

14 A. When I had the gun you could hear a
15 rattling sound inside, as if there was a loose
16 round between the top of the magazine and where
17 it chambers the round. There was a round
18 actually stuck in the barrel. I had to use a
19 dowel rod to push that round out.

20 Q. You mean it was stuck in the barrel?

21 A. When you pulled the slide back, the round
22 wouldn't come out.

23 Q. It would not extract?

24 A. Correct.

25 Q. And it wouldn't just shake out. You had

1 to push it out.

2 A. I had to use a dowel rod to push the round
3 out.

4 Q. Is that normal?

5 A. No.

6 Q. Do you recall what type of ammunition the
7 weapon was loaded with?

8 A. It had two different kinds of rounds. Six
9 of the rounds were Ruger nine-millimeter RP,
10 and then there were two Ruger nine-millimeter
11 MRP.

12 Q. But all of them were nine-millimeter
13 Ruger. Is that correct?

14 A. That's correct.

15 Q. What was done with the pistol and the
16 ammunition after you completed your
17 examination?

18 A. It was sealed up into a box and then
19 turned into evidence.

20 Q. And then it went to SLED to be examined by
21 Mr. Lawrence Gainey; is that correct?

22 A. Correct.

23 Q. Please answer any questions defense
24 counsel may have for you.

25 MR. CARROLL: No questions, Your

1 Honor.

2 THE COURT: Thank you. You may step
3 down, Mr. Miller. Do you wish the witness to
4 be excused?

5 BRUCE DURANT: Yes, sir.

6 MR. CARROLL: No objection.

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

9 (WITNESS STEPS DOWN)

10 THE COURT: Ladies and gentlemen, at
11 this point we'll take our recess for lunch.
12 Please remember you are not to begin your
13 deliberations. You are not at liberty to
14 discuss the case among yourselves or with
15 anyone. Have a good lunch. Please don't allow
16 anyone to talk about the case in your presence.
17 I'd ask you to return to the jury room by 2:00
18 o'clock. Thank you.

19 (JURY OUT @ 12:31 P.M.)

20 THE COURT: Anything from the State
21 before we recess?

22 SOLICITOR WILSON: Just for
23 scheduling, Judge, we have five other witnesses
24 for testimony. I have no idea how long it
25 will take. I would ask that we break then and

1 then take up the issue of the autopsy
2 photographs.

3 And then I think tomorrow we'll have
4 victim impact, which I think will be very short
5 and the M.E., depending on the rulings, we'll
6 be finished up tomorrow morning. But we may
7 need a break earlier.

8 We also just got the defense expert
9 report, so we may need time to look at that as
10 well.

11 THE COURT: That's fine. Thank you.
12 I appreciate it. Anything else from the State
13 before recessing at this point?

14 BRUCE DURANT: No, sir.

15 THE COURT: Anything from the
16 defense?

17 MR. BLOOM: Court's indulgence.
18 Judge, we would ask that the Court consider
19 offering possibly a curative instruction. You
20 ruled that the underlying arrest for armed
21 robbery -- one witness, I believe Officer
22 Scarborough, stated that and we objected and
23 you sustained it. We would ask that the jury
24 be instructed not to consider that underlying
25 charge was dismissed:

1 THE COURT: I'm not going to tell
2 them that the charge was dismissed. I'll tell
3 them they can't consider it. If you want to
4 call attention to it -- I sustained the
5 objection. They've already been told that
6 that's not an matter for their consideration.
7 But if you want me to say, "I sustained the
8 objection. You're to disregard anything he
9 said regarding the question", I'll be happy to
10 reiterate that. But I'm not going to tell them
11 the charge was dismissed.

12 MR. BLOOM: All right. We don't
13 need you to do that. Just to give a general
14 charge that ---

15 THE COURT: I don't think there's
16 any reason to give a curative instruction and
17 say the charge is dismissed when there wasn't
18 any testimony about it. So I decline to do
19 that. I assume the State would -- I can't
20 understand any reason to really give that,
21 except -- frankly, it calls attention to it was
22 well.

23 BRUCE DURANT: Exactly. It kind of
24 puts it in the spotlight.

25 THE COURT: And I don't think that's

1 appropriate. Because then you really do -- if
2 I start talking about it being dismissed, then
3 I have to give the State an opportunity to talk
4 about what was going on.

5 BRUCE DURANT: We'll be glad to
6 put it in.

7 THE COURT: I'm sure you would. I
8 don't think we need to go there. Thank you.

9 MR. BLOOM: Thank you, Your Honor.

10 THE COURT: But you want me to give
11 that instruction?

12 MR. BLOOM: No, sir.

13 THE COURT: You're withdrawing the
14 request for the instruction?

15 MR. BLOOM: That would be correct.

16 THE COURT: Thank you.

17 (LUNCH RECESS)

18 (DEFENDANT PRESENT)

19 THE COURT: Let the record reflect
20 Mr. Dickerson is present. Mr. Bloom?

21 MR. BLOOM: May it please the Court,
22 it's my understanding that the State intends to
23 call a witness who it's my understanding was a
24 parole hearing officer in 1996 who witnessed a
25 statement the Defendant made at the parole

1 hearing. We would move not to allow such
2 testimony for the same reasons we've set forth
3 for other such witnesses. I won't repeat all
4 that for Your Honor because Your Honor clearly
5 knows that information.

6 It's also my understanding that at the
7 parole hearing there was no *Miranda* warning
8 giving, there was no right to have an attorney
9 present. And so eliciting a statement at a
10 parole hearing that's being used in this
11 proceeding fourteen or fifteen years later, we
12 feel, is irrelevant and more prejudicial than
13 probative.

14 THE COURT: What's the State's
15 position?

16 BRUCE DURANT: Your Honor, I think
17 the statements made are very relevant to the
18 character of the Defendant. It occurred at a
19 parole hearing, his parole hearing, which
20 occurred, I think in June of 1996 with the
21 parole revocation for the strong armed robbery
22 incident and assault of a high and aggravated
23 nature that he received a youthful offender
24 incarceration for.

25 At the time of the parole hearing he

1 had also been involved in the shooting incident
2 with the police, and the hearing went into
3 matters involving that. He stated repeated
4 during the parole hearing that he wished he had
5 killed the police officer. We think that is
6 very relevant to the Defendant's character and
7 characteristics, and we think it is something
8 the jury should be allowed to hear in
9 determining what sentence to impose in this
10 case.

11 THE COURT: Okay. Why doesn't it go
12 to the character of this defendant?

13 MR. BLOOM: Well, one, Your Honor, I
14 think it gets far afield of the issues before
15 the jury in terms of prior convictions and
16 other matters. Secondly, even if Your Honor is
17 at that threshold, there is, I think, a Fifth
18 and Sixth Amendment violation here.

19 THE COURT: He was testifying under
20 oath?

21 MR. BLOOM: I don't know if that's
22 correct. I don't think at parole hearings
23 they're often given *Miranda* warnings. They
24 certainly don't have a right to counsel at a
25 parole hearing. I know that's correct. And so

1 to use a statement that was elicited at a
2 hearing for one purpose and now use it at this
3 point later for another purpose, I think that
4 does bring in the Fifth and Sixth Amendment
5 violations in terms of how the statement was
6 elicited.

7 By way of example, let's say for
8 example there's a case, Your Honor, that the
9 Defendant had given a confession in this case.
10 Which he hasn't. But let's assume he has
11 and let's assume that in the trial phase that
12 you had ruled the confession was a violation of
13 his Fifth and Sixth Amendment rights.
14 Certainly, Your Honor, then under the law you
15 could not turn around and allow that confession
16 to be used in this phase just to show the
17 Defendant's nature. The Fifth and Sixth
18 Amendment rights would attach. I think it's
19 inadmissible. I think that's the same as with
20 this statement as well.

21 Lastly, I would note that the parole
22 hearing apparently may be tape recorded; the
23 report indicates that, but we've never been
24 provided with any tape recording of the
25 hearing.

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Before The Honorable R. Markley Dennis, Jr.

1 That would be all our grounds.

2 THE COURT: Anything else?

3 BRUCE DURANT: Nothing, Your
4 Honor. I would -- with regard to the tape
5 recordings, they just didn't keep them that
6 long.

7 THE COURT: I wouldn't expect it to
8 be.

9 (RECEIVED JURY NOTE)

10 COURT REPORTER: Court's Exhibit 27.

11 (SO ENTERED AS COURT'S EXHIBIT 27)

12 THE COURT: Do we have a nurse
13 available? Do we have a medical person that
14 can take blood pressure?

15 DEPUTY: We have a first responder.

16 THE COURT: Juror 234 feels the
17 blood pressure is elevated, Mr. Page. So we'll
18 wait a moment for his blood pressure to be
19 taken.

20 Is the witness present?

21 BRUCE DURANT: Yes, Your Honor.

22 THE COURT: I think -- I mean, I
23 just can't rule in a vacuum on this. I'd like
24 to hear a preliminary ---

25 BRUCE DURANT: You want us to

1 proffer the testimony?

2 THE COURT: Let's do that. Since
3 we're waiting on that and if the witness is
4 present.

5 (WITNESS TAKES STAND)

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

9 PROFFER EXAMINATION

10 BY BRUCE DURANT:

11 Q. Good afternoon, Ms. Davis. Could you tell
12 the judge where you're employed?

13 A. I'm currently employed with United States
14 Probation in Columbia.

15 Q. How long?

16 A. Since June 1997.

17 Q. And what do you do for federal probation?

18 A. I'm a United States probation officer.

19 Q. And where did you work in 1996?

20 A. In 1996 I worked for State probation here
21 in Charleston.

22 Q. And what did you do for State probation in
23 Charleston in 1996?

24 A. I was an administrative hearing officer.

25 Q. And what does an administrative hearing

1 officer with State probation do?

2 A. An administrative hearing officer presides
3 over violation hearing. If someone on
4 probation or parole violates prior to going to
5 court or prior to going before the parole
6 board, they would have a hearing with the
7 administrative officer. It would be determined
8 whether they violated the conditions of
9 supervision and either they could be continued
10 under supervision at that time, conditions
11 modified with the approval of the Court or the
12 board, or the case would be remanded to Court
13 or to the Parole Board for revocation action.

14 Q. And how long were you employed as an
15 administrative hearing officer with State
16 probation?

17 A. From November of 1994 until June 1997.

18 Q. In that capacity did you have the occasion
19 to preside over a parole revocation hearing
20 involving the Defendant, William Dickerson, on
21 June the 4th of 1996?

22 A. Yes, I did.

23 Q. Where did that take place?

24 A. That hearing took place at the Charleston
25 County Detention Center.

1 Q. And who all was present at that hearing?

2 A. In addition to myself, there was a parole
3 officer and the parolee, William Dickerson.

4 Q. At that time were you aware that the
5 Defendant -- at the time of the parole hearing,
6 are you aware that the Defendant had been
7 involved in an incident wherein he had been
8 shot?

9 A. That did come out during the course of the
10 hearing.

11 Q. And specifically what did Mr. Dickerson
12 tell you regarding the incident where he was
13 shot by the police officers?

14 A. He denied that he pointed the gun at the
15 officers, but he did admit to being in
16 possession of the gun and repeatedly during the
17 course of the hearing he advised that he wished
18 he had shot the officers.

19 BRUCE DURANT: That's pretty much
20 the testimony.

21 THE COURT: Are you going to ask any
22 questions?

23 CROSS EXAMINATION

24 BY MR. BLOOM:

25 Q. Ms. Davis, at the parole hearing he is not

1 given an appointed attorney if he's
2 incarcerated such as he would be if he were in
3 jail awaiting a hearing in General Sessions
4 Court.

5 A. He is not appointed an attorney in the
6 administrative hearing.

7 Q. And no *Miranda* warnings are given advising
8 him that anything of things he says at the
9 hearing?

10 A. I don't recall exactly the statement of
11 rights that are given to a person who has
12 violated. But they are advised that it is a
13 matter of evidence, and that they have the
14 right to an attorney at that hearing, and
15 whatever they say can be used against them at a
16 future hearing.

17 Q. He had the right to an attorney if he
18 could afford to hire an attorney?

19 A. At that point, yes, sir.

20 Q. And, of course, at the time of this
21 hearing he was incarcerated?

22 A. Correct.

23 Q. I believe you said they are told that
24 anything they say could be used at a future
25 parole hearing?

1 A. Correct.

2 Q. The Order of revocation in this case did
3 not list any alleged statement by William
4 Dickerson. Is that correct?

5 A. I did not prepare the order of revocation.
6 I only prepared the findings from the
7 administrative hearing.

8 Q. When you prepare the findings from an
9 administrative hearing, where does that go, or
10 a copy of that go?

11 A. A copy of it to parole agent and also a
12 copy of the Parole Board.

13 Q. To the parole agent and the Parole Board,
14 they get copies of that?

15 A. Yes.

16 Q. The person in front of the parole hearing,
17 the parolee, does not get a copy of that?

18 A. No, he doesn't.

19 Q. So he would not have been aware of the
20 particular findings of the allegations from
21 that administrative hearing unless that came
22 from the parole agent and the Parole Board?

23 A. I'm not sure if at the actual violation
24 hearing if he has access to that.

25 Q. You would acknowledge that the order of

1 revocation does not contain this alleged
2 statement by him that you testified to today.

3 A. Not the revocation order, no.

4 Q. Thank you, ma'am.

5 THE COURT: Anything further?

6 REDIRECT EXAMINATION

7 BY BRUCE DURANT:

8 Q. But you did prepare a summary of the
9 administrative hearing as a result of this
10 hearing for this parolee; did you not?

11 A. Yes, I did.

12 BRUCE DURANT: Could we have this
13 marked as State's Exhibit 337?

14 COURT REPORTER: Yes, sir, I will be
15 glad to. State's Exhibit 337 for
16 identification.

17 REDIRECT EXAMINATION CONTINUED

18 BY BRUCE DURANT:

19 Q. I hand you what's now been marked as
20 State's Number 337 for identification purposes
21 only and ask you if that is the summary of the
22 administrative hearing that was had regarding
23 the Defendant on June 4th?

24 A. Yes, sir.

25 Q. And in your summary of findings regarding

1 that administrative hearing, does it contain in
2 there the statements he made concerning he
3 wished he had killed the police officer?

4 A. No, he said he wished he had "shot them."

5 BRUCE DURANT: Thank you. I have
6 nothing further, Your Honor.

7 THE COURT: Anything else?

8 MR. BLOOM: Not in terms of
9 questioning this witness.

10 THE COURT: I'll be happy to hear
11 from you further.

12 SOLICITOR WILSON: Judge, could I
13 grab those two cases that I handed up on the
14 other issue?

15 THE COURT: (Tenders).

16 SOLICITOR WILSON: Thank you.

17 THE COURT: Anything further?

18 MR. BLOOM: Nothing of this witness,
19 Your Honor. We would argue ---

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

22 MR. BLOOM: --- that this does not
23 meet the threshold to allow the State to put it
24 in evidence. I would also note by her own
25 testimony, the Order/findings she prepared, a

1 copy does not go to the defendant. So he had
2 no way fourteen years ago to rebut that
3 assertion at the time it came up. He had no
4 way to contest it, to say 'No, that's not what
5 I said. That's not what I meant.' The order
6 of revocation, which he does get a copy of,
7 doesn't have that declaration. So it's almost
8 like a secret finding that she makes that only
9 the Probation and Parole Board gets. This is
10 very akin to, I think, *Gardner v. Fore*, the
11 U.S. Supreme Court case where the sentencer in
12 that case was the trial judge, not the jury.
13 And the probation report was one that the trial
14 judge saw but the defendant and the defendant's
15 counsel did not. The Court said you have to
16 give the defendant an opportunity to rebut or
17 deny or explain any allegation that goes to the
18 death penalty or life without parole.

19 This is akin to that, because fourteen
20 years ago when he may have had an opportunity
21 to say "no, that's not what I meant" or "I said
22 it differently" or "I want to contest that," he
23 never gets to see that until now.

24 It's basically a confidential, secret
25 report that he had no way to rebut or address

1 at the time it was alleged. And now he can't
2 go back fourteen years later and rebut, deny or
3 explain that. He can't request a copy of the
4 tape and say "that's not what I said" or "I
5 said it in a different context" or some other
6 explanation. There's no way to go
7 back. It essentially amounts to a denial of
8 due process. So we have a Sixth Amendment
9 issue for the right to counsel and *Miranda*. We
10 also have the denial of due process because
11 there's no way for us to now go back and try to
12 rebut that.

13 It is a -- let me just postulate. If
14 it's true, as Your Honor can well see it's a
15 damaging allegation for the jury to have that
16 information at this juncture. The problem is
17 the denial of due process comes in that it is
18 contained in a confidential, secret filing that
19 he never had an opportunity to rebut, address
20 or explain at the time.

21 It was not like the ultimate charges
22 of assaulting an officer and resisting arrest
23 that he ultimately came to Court and plead
24 guilty and received a sentence.

25 But here there was no way for him to

1 rebut that or explain that. It's something now
2 that comes out of the blue fourteen years later
3 that he didn't have due process rights at the
4 time. So I think that we're in a Catch 22.
5 There's no way now, fourteen years later, we
6 can rebut, deny or explain that alleged
7 damaging statement. I think that under *Gardner*
8 as well as the other cases provided to you, I
9 think it's not admissible for those reasons.

10 This could be incredibly damaging
11 evidence to the jury, if true -- I acknowledge
12 that. But the Defendant had to avail himself
13 of due process rights to be able to deny or
14 rebut or explain. And he can't. There's no
15 tape in existence any more to understanding the
16 context of what was said. For example, he
17 could have, if he was notified, he could have
18 filed a grievance or filed a letter or
19 something saying "No, I didn't say that at the
20 hearing. I did admit having a gun in my
21 possession but that's not how I said it or what
22 I meant." And that could have been addressed.
23 Now there's no way for us to do that. And for
24 all those reasons, Your Honor, we respectfully
25 object.

1 THE COURT: Response?

2 BRUCE DURANT: Just very briefly,
3 Your Honor. Apparently, the witness was
4 advised of his right to counsel and he was
5 advised that anything he said could be used
6 against him before he testified. I'm sorry
7 that we don't have a tape. We attempted to get
8 the tape. But they have had the summary of the
9 administrative findings for months and months
10 and months when we were in discovery. It is
11 not any surprise to them. It goes very well to
12 the Defendant's state of mind, and it is very
13 relevant to his character. There's never been
14 a rule of law that I'm aware of that this court
15 says that if you can't find a tape of it, it
16 doesn't come in.

17 THE COURT: Anything else?

18 MR. BLOOM: No, sir.

19 THE COURT: First of all, he is in a
20 proceeding where he has some reason to be
21 testifying in the first place, for whatever
22 reason. The challenge to her testimony and her
23 credibility is obviously there. The jury has
24 to make a determination as to the truthfulness
25 of it. But it goes -- and it really goes

1 in conjunction with what we've heard thus far,
2 as to the act. There were challenges that you
3 didn't prove that in the report of what he was
4 allegedly trying to do. And it further
5 corroborates their assessment of that, which is
6 already before this jury, what was taking place
7 at this particular time. I think the probative
8 value outweighs the prejudice, and I think it's
9 appropriate. It goes strictly to his
10 character, absolutely. So, thank you. Your
11 objection is noted and preserved.

12 Have we gotten the blood pressure cuff?
13 It's been taken? Court's 19?

14 COURT REPORTER: No, sir. The first
15 note was marked as Court's Exhibit 27 and this
16 will be Court's Exhibit 28.

17 THE COURT: Okay.

18 (SO ENTERED AS COURT'S EXHIBIT 28)

19 THE COURT: Court's Exhibit 27 is
20 the first note. "Blood pressure is 194 over
21 100, which is considered to be high. Please
22 advise." He's one of the alternates. I
23 think we've gotten this far with four. I don't
24 see any reason -- I think three will carry us
25 through to the end of this case. Given the

1 attitude, I think the juror ought to be
2 excused. Any objection from the State?

3 SOLICITOR WILSON: No.

4 THE COURT: Any objection from the
5 Defendant?

6 MR. BLOOM: No.

7 THE COURT: Ask Mr. Page to come in,
8 please.

9 (JUROR NUMBER 234 ENTERS COURTROOM)

10 THE COURT: Mr. Page?

11 JUROR NUMBER 234: Yes, sir.

12 THE COURT: You okay?

13 JUROR NUMBER 234: My hands started
14 sweating.

15 THE COURT: That's fine.

16 JUROR NUMBER 234: I felt real
17 flushed. I called my wife and actually told
18 her that I just felt funny. I didn't -- I
19 actually went to the Mills House and asked over
20 there, because I know Mr. Edwards and asked if
21 they had something because I didn't want to
22 interrupt. Anyway she said it was like 190,
23 and it was 210 at one time.

24 THE COURT: We need to let you go.
25 You need to take care of yourself.

1 JUROR NUMBER 234: I'm going to go
2 straight to Nation's Medical, because my
3 doctor's on his way back from Rock Hill,
4 Gaffney.

5 THE COURT: Do you feel all right to
6 drive?

7 JUROR NUMBER 234: I just walked
8 around the block. I stopped and had lunch over
9 here and drank three glasses of water, and I
10 just drank two more bottles of water. I could
11 actually get my wife to come. I just walked
12 around the block. I feel okay. I've not
13 having chest pains or short of breath.

14 THE COURT: We'll certainly have
15 someone wait with you for your wife to come,
16 but we're going to excuse you from further
17 participation, and I hope all goes well for
18 you.

19 JUROR NUMBER 234: Yes, sir.

20 THE COURT: Thank you so much.

21 JUROR NUMBER 234: I'm sorry.

22 THE COURT: No, sir, don't
23 apologize. We hope everything's good. Thank
24 you so much, sir.

25 (JUROR NUMBER 234 EXCUSED)

1 THE COURT: We're ready to continue.

2 SOLICITOR WILSON: Judge, I'm
3 going to hand up a number of photographs just
4 so the Court can have them during this time.
5 And when we get through we'll review which ones
6 you're okay with.

7 THE COURT: Thank you. Is the State
8 ready to proceed?

9 SOLICITOR WILSON: Yes, sir.

10 THE COURT: Defendant is ready to
11 proceed?

12 MR. BLOOM: Yes, sir.

13 THE COURT: Let's bring in our jury.

14 (JURY IN @ 2:22 P.M.)

15 THE COURT: Thank you very much,
16 ladies and gentlemen. Please be seated. Thank
17 you. Ladies and gentlemen, thank you. I hope
18 you had a good lunch.

19 You are familiar that Mr. Page has
20 brought our attention to a matter, and out of
21 an abundance of caution, we've excused him from
22 further participation in the dispute.

23 Ms. Earheart, Ms. Ancrum and Ms.
24 Dobson, you now have the back row just for the
25 three of you. I want to thank you very much

1 and ask you to give your attention now to the
2 next witness. Call your next witness.

3 BRUCE DURANT: Thank you, Your
4 Honor. The State would call Lawrence Gainey.

5 (WITNESS TAKES STAND)

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

9 DIRECT EXAMINATION

10 BY BRUCE DURANT:

11 Q. Good afternoon, Mr. Gainey.

12 A. Good afternoon.

13 Q. Could you tell the jury what you do for a
14 living, sir?

15 A. I'm a Major in charge of investigative
16 services of the State Law Enforcement Division,
17 also known as SLED.

18 Q. How long have you been with SLED?

19 A. I've been with SLED for twenty-three
20 years.

21 Q. And your current duty is Major of
22 investigative services. What is that exactly?
23 What does are the duties of that job?

24 A. It entails the regional investigation,
25 that's our criminal investigation part of SLED,

1 along with our tactical services, such as the
2 SWAT Team, aviation, bloodhounds, technical
3 services, narcotics investigation, special
4 victims investigation, behavioral sciences,
5 computer crimes, polygraph, and I'm sure there
6 are some others.

7 Q. What were you doing with SLED back in
8 1996?

9 A. In 1996 I worked in the forensics lab.
10 Specifically, I was assigned to the firearms
11 department.

12 Q. And how long did you work in the firearms
13 identification section of SLED?

14 A. Actually I spent two tours of duty in our
15 firearms identification lab. I came to SLED in
16 1986 and I was assigned to the firearms
17 department.

18 At that time we conducted firearms
19 investigations, we worked crime scenes, we did
20 latent fingerprint identification, we did
21 footwear and tire track identification, we did
22 fracture matches.

23 And in 1990 the laboratory was split into
24 two different parts, the firearms and tool mark
25 laboratory and the latent print and crime scene

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1 laboratory. I was assigned to the latent print
2 crime scene laboratory until 1993. Then I was
3 reassigned back to the firearms laboratory.

4 Q. What does the field of firearms
5 identification consist of?

6 A. There's actually two parts. One has to do
7 with internal ballistics, and then external
8 ballistics. Internal ballistics is the value
9 of function, manufacture and how the firearm
10 will function, how it fires. But also the
11 marks that are left on components and parts of
12 components, such as a bullet or a cartridge
13 casing.

14 Q. What specialized training have you had in
15 the area of firearms identification during your
16 career?

17 A. It's usually -- back in the old days there
18 was no specific school for firearms
19 identification in 1986 or 1993. We had schools
20 that were associated with, for instance,
21 international associations for identification.
22 And then there were armory courses that you
23 could attend for various manufacturers. Mostly
24 it was on-the-job training for people who had
25 been in the firearms identification field for

1 many years.

2 Q. What are armory courses?

3 A. They are courses that are put on by the
4 manufacturers of firearms that explain the
5 components of a firearm, the individual
6 workings. In most cases it allows you to fix
7 or repair a firearm, and the explanation of how
8 the different parts go together. You have to
9 know the specific parts of a firearm, how they
10 are put together. How to take a firearm all
11 the way apart to repair any damage and put it
12 back together and make sure that it will
13 function as a firearm.

14 Q. How long did you actually work in the
15 field of firearm identification?

16 A. Around nine years.

17 Q. And how many cases did you handle in those
18 years?

19 A. Hundreds or around two hundred cases a
20 year.

21 Q. Are you authorized by SLED at the time to
22 conduct firearms investigations?

23 A. Yes, sir, I was.

24 Q. Are you a member of any professional
25 organizations related to firearms

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1 identification?

2 A. The International Association for
3 Identification.

4 Q. And have you been qualified as an expert
5 in the field of firearms identification in the
6 past?

7 A. Yes, sir, I have.

8 Q. On how many occasions and in what courts?

9 A. In State court, in Family court and in
10 military courts.

11 Q. On how many occasions have you been
12 qualified as an expert?

13 A. In all fields, it would be several hundred
14 cases and specifically firearms over forty-five
15 times.

16 BRUCE DURANT: Your Honor, at this
17 time we'd offer Mr. Gainey as an expert in the
18 field of firearms identification, if there's no
19 objection.

20 MR. BLOOM: No objection.

21 THE COURT: Very well, he will be
22 permitted to render opinions in that area.

23 BRUCE DURANT: Thank you, Your
24 Honor.

25 DIRECT EXAMINATION CONTINUED

1 BY BRUCE DURANT:

2 Q. Mr. Gainey, I want to ask you about an old
3 case. Your lab number would be L-96-6639. Did
4 you have the occasion to examine some evidence
5 submitted to you by the Charleston Police
6 Department?

7 A. Yes, sir.

8 Q. Do you recall what that evidence was?

9 A. There were several pieces of evidence that
10 were submitted. Among them, I examined the
11 Star Super nine-millimeter caliber firearm.

12 Q. Was there any ammunition submitted along
13 with that firearm?

14 A. Yes, sir, there was.

15 Q. I show you what's previously been marked
16 as State's Exhibit Number 145 in evidence.

17 Does that appear to be the weapon you examined
18 back in 1996?

19 A. Yes, sir, it does.

20 Q. If you've already answered this, I
21 apologize. Was some ammunition submitted with
22 the weapon as well?

23 A. Yes, there were several unfired nine
24 millimeter luger-caliber cartridges.

25 Q. Okay.

1 A. There were eight.

2 Q. Eight altogether?

3 A. Yes, sir.

4 Q. Those were all nine-millimeter luger
5 cartridges. Is that correct?

6 A. Yes, sir. If I could explain, a
7 "cartridge" is what most folks would call
8 unfired bullets. Actually it consists of a
9 cartridge case, a primer, the powder is on the
10 inside and then the bullet that is fitted and
11 that would be an unfired cartridge.

12 Q. So all of the ammunition submitted was
13 nine-millimeter luger. Is that correct?

14 A. That's correct.

15 Q. Did you examine the Star model that was
16 submitted along with the ammunition?

17 A. Yes, sir.

18 Q. And what was the caliber of the pistol?

19 A. It was a Star Model Super pistol, and the
20 chamber of that -- or the caliber of that
21 weapon is nine-millimeter largo. That is a
22 different caliber than a nine-millimeter luger.

23 Q. In what regard, sir?

24 A. The nine-millimeter largo is approximately
25 four millimeters longer. That would be the

1 cartridge case. It takes the same bullet, but
2 the cartridge case is approximately four
3 millimeters longer.

4 Q. I believe in preparation for your
5 testimony you actually brought a sample of each
6 caliber. Is that correct?

7 A. Yes, sir, I did.

8 Q. Are these the samples you brought, sir?

9 A. Yes, sir, they are.

10 BRUCE DURANT: Your Honor, could
11 we mark these as an exhibit if I had something
12 to put them in.

13 THE COURT: All right.

14 COURT REPORTER: State's Exhibit 338
15 for identification.

16 THE COURT: This is for I.D. only?

17 BRUCE DURANT: That's correct,
18 Your Honor.

19 DIRECT EXAMINATION CONTINUED

20 BY BRUCE DURANT:

21 Q. Mr. Gainey, with reference to what's been
22 marked as State's Exhibit Number 338 for
23 identification, would this assist you in
24 explaining to the jury the difference between
25 those two cartridges.

1 A. Yes, sir.

2 The gold colored, brass colored cartridge,
3 the luger bullet is a nine-millimeter luger.

4 The cartridge that is silver or actually
5 aluminum with the copper-colored top is
6 actually a nine-millimeter largo.

7 As you can see the largo is longer.

8 The luger is shorter.

9 Q. Is that the principal difference between
10 those two rounds?

11 A. That is the principal difference between
12 those two rounds.

13 Q. The diameter of the bullet is exactly the
14 same?

15 A. It is.

16 Q. The diameter of the cartridge case is
17 exactly the same. Is that correct?

18 A. That is.

19 Q. So it's just the length that we're talking
20 about, correct?

21 A. Yes, sir.

22 Q. So the bottom line, was the ammunition
23 that was submitted with that weapon the correct
24 ammunition for that weapon?

25 A. The ammunition that was submitted is not

1 the correct ammunition to be fired in the Star
2 Model Super nine-millimeter largo-caliber
3 pistol. It is incorrect ammunition.

4 Q. During your examination of the weapon did
5 you test fire the weapon using the correct
6 ammunition?

7 A. Yes, sir, I did.

8 Q. What was the result of your testing?

9 A. During testing, when loaded with nine-
10 millimeter largo-caliber cartridges the firearm
11 functioned as designed. That is, it would
12 feed, fire, extract and feed semi-
13 automatically, so that, according to the number
14 of cartridges that were placed in the magazine,
15 it would fire with each pull of the trigger.
16 It would load it. It would fire it. It would
17 extract it, and then it would load the next
18 one.

19 Q. Also, as part of your testing did you
20 attempt to test fire the Star pistol using
21 nine-millimeter luger ammunition?

22 A. I attempted to fire it using nine-
23 millimeter luger. And in my test I could not
24 get the weapon to feed appropriately the nine-
25 millimeter luger caliber cartridge, nor could I

1 get it to fire the nine-millimeter luger-
2 caliber cartridge.

3 Q. So your test indicated that it would not
4 fire a nine-millimeter luger round, even when
5 the chamber was manually loaded?

6 A. It would not.

7 Q. How is that possible?

8 A. Well, on the face, the breach face, which
9 would be the back of the slide there's a piece
10 called an extractor. It's like a little hook
11 that actually fits -- (displaying), this is a
12 rimless cartridge. That is the base is the
13 same diameter as the cartridge case. There's a
14 hook that comes out of the breach of the
15 firearm and actually hooks around what is
16 called the extractor groove. This extractor
17 hook would extract the cartridge. This
18 particular pistol, just the way that it is
19 manufactured, the extractor would not extract
20 the nine-millimeter luger cartridge. It
21 wouldn't grab hold of the extractor groove. In
22 fact, it would push it further into the barrel.
23 And on a rimless cartridge, there's actually
24 space on the mouth of the cartridge that's
25 where the bullet and the cartridge face come

1 together. There's a condition all the way
2 around. That link of the chamber in which the
3 cartridge fits in, it fits space from the mouth
4 of the cartridge back to the end or butt of the
5 cartridge.

6 Again, the nine millimeter largo when
7 chambered, which is approximately four
8 millimeters longer, this doesn't fit properly
9 and it actually goes further into the chamber
10 than it is supposed to.

11 Q. There's been previous testimony that at
12 the time that weapon was recovered that there
13 was a round in the chamber that was so far
14 forward in the chamber that it had to be
15 removed by putting a rod through the muzzle.
16 Assuming that statement is fact, would it have
17 been possible or probable for this gun to have
18 been cocked and fired without actually
19 discharging?

20 A. It would. In fact, in my test I couldn't
21 get it to fire in that condition. The
22 cartridge case was so far down the barrel I
23 could not get it to fire.

24 Q. And would that be because the firing pin
25 would not impact with the primer on the back of

1 the cartridge?

2 A. That would be true. It wouldn't impact
3 with enough impetus or enough force, if it
4 would impact at all, for it to fire.

5 Q. And if that were the case, what would the
6 gun do if it were cocked and the trigger were
7 pulled?

8 A. Click. The hammer would fall, but the
9 firing pin would not go far enough forward. So
10 you would just hear a click.

11 BRUCE DURANT: The Court's
12 indulgence, please.

13 THE COURT: Certainly.

14 DIRECT EXAMINATION CONTINUED

15 BY BRUCE DURANT:

16 Q. Please answer any questions defense
17 counsel may have for you.

18 A. Okay.

19 THE COURT: Cross examine.

20 MR. BLOOM: If it please the Court.

21 CROSS EXAMINATION

22 BY MR. BLOOM:

23 Q. Agent Gainey, I may have only one question
24 for you, sir. A cartridge can get in that
25 chamber also manually. Is that correct?

1 A. Yes, sir.

2 Q. That's all I have. Thank you.

3 THE COURT: Redirect?

4 BRUCE DURANT: No, sir, Your
5 Honor. I would ask that Mr. Gainey be excused,
6 if there's no objection.

7 THE COURT: Any objection?

8 MR. BLOOM: No, sir.

9 THE COURT: You are also free to
10 leave, Mr. Gainey, and you may step down, sir.

11 THE WITNESS: Thank you, sir.

12 THE COURT: Thank you.

13 (WITNESS STEPS DOWN)

14 BRUCE DURANT: State would call
15 Cededrick Davis.

16 (WITNESS TAKES STAND)

17 CEDEDRICK DAVIS, being duly sworn to
18 tell the truth, the whole truth and nothing but
19 the truth, testified, as follows:

20 DIRECT EXAMINATION

21 BY BRUCE DURANT:

22 Q. Good afternoon, Ms. Davis. How are you
23 today?

24 A. Good.

25 Q. Could you tell the jury what you do for a

1 living?

2 A. I'm a United States Probation Officer.

3 Q. And how long have you been with the United
4 States Probation Office?

5 A. Since June 1997.

6 Q. What do you do with the Federal Probation
7 Office?

8 A. I supervise offenders who have been
9 convicted of federal crimes in order to
10 successfully complete supervision in the event
11 they violate. I prepare reports to the Court
12 for violation proceedings.

13 Q. What were you doing back in 1996?

14 A. In 1996, I was an administrative officer
15 with the South Carolina Probation and Parole
16 Department, or State probation.

17 Q. So you were with State probation before
18 you went to Federal probation; correct?

19 A. Correct.

20 Q. What does an administrative hearing
21 officer with the State probation department do?

22 A. The administrative hearing officer
23 presides over violation hearings. If a parolee
24 violated the provisions of supervision, they
25 would come before the administrative hearing

1 officer who hears the violation. The
2 administrative hearing officer either continues
3 the violator under supervisor, continues them
4 on supervision with modifications upon the
5 Court's approval or remands the case to General
6 Sessions Court or the Parole Board for
7 violation revision.

8 Q. And how long were you employed as an
9 administrative hearing officer with the State
10 probation office?

11 A. From 1994 to 1997.

12 Q. As part of your duties as a hearing
13 officer did you prepare summaries of hearings
14 that you had with State probation?

15 A. Yes.

16 Q. I hand you what's previously marked for
17 identification only as State's Exhibit 337 and
18 ask if you recognize that document?

19 A. Yes, I do.

20 Q. What is that?

21 A. This is a summary of an administrative
22 hearing held on June 4th, 1996, with the parolee
23 being William Dickerson.

24 Q. And you prepared that document?

25 A. I did.

1 Q. Who all was at the hearing?

2 A. Other than myself, the parole agent as
3 well as the parolee, William Dickerson.

4 Q. He was on parole, I believe at the time,
5 for strong armed robbery and assault of a high
6 and aggravated nature. Is that correct?

7 A. I'm not sure of the originating offense.

8 Q. But you were doing a parole hearing on
9 those particular offenses. Is that correct?

10 A. Correct.

11 Q. Were you aware at the time of your hearing
12 in June of 1996 of him having been involved in
13 some sort of shooting incident with the
14 Charleston Police Department?

15 A. That came out during the course of the
16 hearing.

17 Q. And what did Mr. Dickerson tell you during
18 the course of the hearing concerning that
19 particular incident?

20 A. He denied that he pointed his weapon at
21 the officers. He did admit having a weapon and
22 also repeatedly during the course of the
23 hearing he stated he wished he'd shot the
24 officers.

25 Q. Would you please answer any questions

1 defense counsel may have for you?

2 THE COURT: Cross examine.

3 MR. BLOOM: May it please the Court.

4 CROSS EXAMINATION

5 BY MR. BLOOM:

6 Q. Ms. Davis, how are you today, ma'am?

7 A. Good, thank you.

8 Q. Let me start by asking at the time this
9 happened, of course, Mr. Dickerson was nineteen
10 years old; correct?

11 A. I don't have the date of birth right here.

12 Q. If the record reflects he was around
13 nineteen years, you wouldn't dispute that.

14 A. I wouldn't.

15 Q. From how he appeared to you at the time;
16 correct?

17 A. Correct.

18 Q. And this takes place, this hearing takes
19 place in the Department of Corrections; right?

20 A. At the Charleston County Detention Center.

21 Q. So this was at the Charleston County
22 Detention Center. And, of course, he had been
23 incarcerated since that incident with the
24 officers; correct?

25 A. I believe so.

1 Q. And he had been shot, to your knowledge,
2 twice; correct?

3 A. I know he had been shot. There were
4 minimal injuries.

5 Q. One shot was to the head, correct? Did
6 you know that? Right around that area?

7 A. I didn't know.

8 Q. So a nineteen-year-old who's locked up
9 shortly after this incident, it would not be
10 unusual for him to be -- and if he had been
11 shot -- for him to be upset over it. Is that
12 fair to say?

13 A. I imagine so.

14 Q. And I think you told us that he did admit
15 to you truthfully that he had a gun in his
16 possession?

17 A. Correct.

18 Q. But he did deny that he had pointed it
19 directly at the officers?

20 A. Correct.

21 Q. Now, next I want to ask you the allegation
22 of the statement he made about the officers,
23 you put that in a report that you do that has
24 findings in it; is that correct?

25 A. That's correct.

1 Q. But he doesn't get a copy of that?

2 A. No, he does not.

3 Q. So your report, as I understand it, then
4 goes to the parole agent?

5 A. Correct.

6 Q. And goes also to the Parole Board?

7 A. Correct.

8 Q. And then the Parole Board may issue an
9 order of recommendation that revokes his
10 parole; correct?

11 A. At the final revocation hearing.

12 Q. Right. And isn't it also correct that the
13 allegation about what he may have said about
14 the officers is not in the order of revocation.
15 Isn't that correct?

16 A. That's correct.

17 Q. And that's a copy of what he gets. Is
18 that correct? He gets a copy of the order of
19 revocation.

20 A. Yes.

21 Q. He doesn't get your confidential report?

22 A. He does not get a copy of my findings.

23 Q. So if he had wanted to dispute or explain
24 any comments alleged to him back in '96, if it
25 was not in the order of revocation he would

1 have not have gotten notice of your findings?

2 A. If it came up during the course of the

3 final revocation hearing, if that came up.

4 Since I wasn't at that final revocation

5 hearing, I don't know if it came up.

6 Q. All right, and in -- thank you very much.

7 THE COURT: Redirect.

8 BRUCE DURANT: Just one.

9 REDIRECT EXAMINATION

10 BY BRUCE DURANT:

11 Q. To be clear, you do say that in the
12 summary of your findings back in 1996; is that
13 correct?

14 A. I state what?

15 Q. About his statement about he wished he had
16 shot the police officer?

17 A. Correct. He repeatedly said he wished
18 he'd shot the officers.

19 RECROSS EXAMINATION

20 BY MR. BLOOM:

21 Q. Just so we're clear, he doesn't get a copy
22 of that report that you issue.

23 A. That's correct.

24 Q. Thank you, ma'am.

25 THE COURT: You may come down.

1 BRUCE DURANT: I would ask that
2 Ms. Davis be excused.

3 THE COURT: Any objection?

4 MR. BLOOM: No objection, Your
5 Honor.

6 THE COURT: You are also free to
7 leave. Thank you.

8 (WITNESS STEPS DOWN)

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

11 BRUCE DURANT: The state would
12 call Tomiesha Nelson.

13 (WITNESS TAKES STAND)

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

17 DIRECT EXAMINATION

18 BY BRUCE DURANT:

19 Q. Good afternoon, Ms. Nelson. You have
20 previously testified in this proceeding. Is
21 that correct?

22 A. Yes, sir.

23 Q. You are the former girlfriend of the
24 Defendant, William Dickerson. Is that correct?

25 A. Yes, sir.

1 Q. I believe in the first phase of this trial
2 you testified concerning an incident which
3 occurred at your place on Cedar Road on March
4 the 3rd of 2006. Is that correct?

5 A. Yes, sir.

6 Q. And if you would just briefly tell the
7 jury what happened that morning between you and
8 Mr. Dickerson.

9 A. We'd had an argument the day before. He
10 came back, we still were arguing. He came
11 back, he picked the phone up and he attacked me
12 and he fought me.

13 Q. Pardon me?

14 A. He attacked me.

15 Q. How did he attack you?

16 MR. BLOOM: Your Honor, I object to
17 this. This has been testified to already. If
18 they want to get to the photographs, we have no
19 objection to that but for her to repeat her
20 testimony from the ---

21 THE COURT: I sustain the objection.
22 We've incorporated it.

23 DIRECT EXAMINATION CONTINUED

24 BY BRUCE DURANT:

25 Q. How long had Mr. Dickerson been out of

1 prison at the time of this?

2 A. Two or three months.

3 Q. I want to hand you what's previously been
4 marked as State's Exhibits 149 and 151 for
5 identification and ask if you recognize those
6 photographs?

7 A. (Upon review) -- yes.

8 Q. What are those photographs of?

9 A. Me.

10 Q. Those photographs were taken of you on
11 March the 3rd of 2006?

12 A. Yes, sir.

13 Q. Before or after your altercation with Mr.
14 Dickerson?

15 A. After.

16 Q. Do they fairly and accurately depict your
17 condition on that day after your argument with
18 Mr. Dickerson?

19 A. Yes, sir.

20 BRUCE DURANT: Your Honor, at this
21 time we would offer State's 149 and 151 into
22 evidence.

23 THE COURT: Any objection?

24 MR. BLOOM: If I could just see
25 them, I don't think we have an objection.

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1 THE COURT: Sure.

2 MR. BLOOM: (Upon review) -- no
3 objection.

4 THE COURT: Without objection,
5 State's 149 and 151 are admitted, each being a
6 photograph.

7 (SO ENTERED AS STATE'S EXHIBIT 149)

8 (SO ENTERED AS STATE'S EXHIBIT 151)

9 DIRECT EXAMINATION CONTINUED

10 BY BRUCE DURANT:

11 Q. Could we see State's 149, please? What
12 does this photograph depict, Ms. Nelson?

13 A. Sir?

14 Q. What does that depict, State's Number 149?

15 A. Me.

16 Q. And what happened to your face at that
17 location?

18 A. William Dickerson beat me up.

19 THE COURT: Speak into the mic,
20 please, ma'am.

21 DIRECT EXAMINATION CONTINUED

22 BY BRUCE DURANT:

23 Q. How about State's 151?

24 A. It's another one of my body.

25 Q. After you were able to get out of your

1 house where did you go?

2 A. I ran outside, ran to a neighbor and took
3 her phone and ran into her house.

4 Q. Pardon me?

5 A. I ran outside, ran to a neighbor's house,
6 ran through her house, down the street, and
7 called for help.

8 Q. Who did you call?

9 A. My family and the police.

10 Q. Did you have to seek any medical treatment
11 as a result of your injuries?

12 A. Yes. I had a CAT scan, had to get
13 transported from one hospital to another and
14 they kept me overnight but then they released
15 me.

16 Q. You testified briefly that you continued
17 to have contact with Mr. Dickerson after this
18 incident occurred. Is that correct?

19 A. Yes.

20 Q. Were you also dealing with some law
21 enforcement authorities?

22 A. Probation and parole, yes.

23 Q. And why were you dealing with them?

24 A. They were supposed to -- when we left the
25 hospital -- my mother lived in North

1 Charleston, so when we were told that they
2 would release me William was still bothering me
3 and they told me that the only people that I
4 could talk to were Probation & Parole; that he
5 violated it, so that he would stay away from
6 me, because he had approached on previous
7 conversations and ---

8 Q. And who -- who told you that?

9 A. The police.

10 Q. And is that why you recorded that
11 conversation that was previously admitted in
12 this case?

13 A. I was afraid, but I recorded it.

14 Q. Why were you afraid?

15 A. Before then, I wasn't sure why -- I didn't
16 know all this was going on.

17 Q. How about after the fact, when you were
18 separated from him? What was the tenor of your
19 phone calls with him at that point?

20 A. He had a friend of his -- (paused) --
21 kidnaped, so I was trying to figure out what
22 was going on, so I taped it.

23 Q. I understand that. Were there ever any
24 threats made to you?

25 A. (Affirmative nod), several threats.

1 Q. Pardon me?

2 A. Several threats. He said he was going to
3 kill me, my friends. He said he was going to
4 stick a gun up my daughter's rear end.

5 Q. And did you report all this to the
6 probation officers?

7 A. Yes, sir.

8 BRUCE DURANT: Court's indulgence.

9 THE COURT: Yes, sir.

10 DIRECT EXAMINATION CONTINUED

11 BY BRUCE DURANT:

12 Q. Would you please answer any questions the
13 defense may have for you?

14 A. (No verbal response).

15 THE COURT: Cross?

16 MR. BLOOM: May it please the Court.

17 CROSS EXAMINATION

18 BY MR. BLOOM:

19 Q. Ms. Nelson, you and William had gotten
20 together, I believe, around January of 2006.
21 Is that correct?

22 A. Yes, sir.

23 Q. And prior to that he had gotten released
24 from the South Carolina Department of
25 Corrections back around September of 2005.

1 Would that be fair to say?

2 A. Yes, sir.

3 Q. That sounds about right to you?

4 A. Yes, sir.

5 Q. You didn't just meet him in January of
6 2006. You all had known each other prior to
7 that at some point?

8 A. We went to high school together.

9 Q. And so you kind of re-met each other and
10 re-kindled whatever that relationship was; in
11 January of 2006, is that fair to say?

12 A. Yes.

13 Q. I believe you have told us you have three
14 children already?

15 A. Yes, sir.

16 Q. And what were their ages roughly three
17 years ago?

18 A. Three years ago?

19 Q. What are they now -- if that is easier?

20 A. They're nine, six and five now.

21 Q. Nine, six and five. So they would have
22 roughly been about six, three and two.

23 A. Yes.

24 Q. And they aren't William's children;
25 correct?

1 A. No, sir.

2 Q. But when your relationship started he
3 helped provide for you and your children to
4 some degree?

5 A. Yes.

6 Q. Helped buy groceries?

7 A. Yes, sir.

8 Q. Helped buy clothes for your children?

9 A. Yes, sir.

10 Q. And was trying to take care of you and
11 create a family. Is that fair to say?

12 A. Yes, sir.

13 Q. And at some point in time in the household
14 there began some drug use?

15 A. In the household? No.

16 Q. I may have phrased it wrong. Let me ask
17 this. At some point in time drugs began to
18 start being used, correct?

19 A. No, sir.

20 Q. No?

21 A. (Negative gesture).

22 Q. You don't recall that?

23 A. No, sir.

24 Q. Let me just ask it this way. Were you
25 using any drugs during that period of time that

1 you were with William?

2 A. Yes, I used marijuana.

3 Q. And he was too, correct?

4 A. Yes, sir.

5 Q. And some cocaine as well?

6 A. Yes, sir.

7 Q. And he began deteriorating. Is that fair
8 to say?

9 A. What does that mean?

10 Q. His drug use seemed to increase over a
11 period. Is that fair to say?

12 A. Yes, sir.

13 Q. And lastly, on this incident, I believe
14 you told us he took you to the hospital that
15 Sunday or thereabouts for further treatment?

16 A. Yes.

17 Q. And I think you also told us that was the
18 only time you had a fight of that nature?

19 A. That bad.

20 Q. Thanks very much.

21 THE COURT: Redirect.

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

24 THE COURT: Thank you. You may come
25 down, Ms. Nelson.

1 (WITNESS STEPS DOWN)

2 BRUCE DURANT: State would call
3 Lester Williams.

4 (WITNESS TAKES STAND)

5 LEESTER WILLIAMS, being duly sworn to
6 tell the truth, the whole truth and nothing but
7 the truth, testified, as follows:

8 DIRECT EXAMINATION

9 BY BRUCE DURANT:

10 Q. What's your first name?

11 A. Leester Williams.

12 Q. Good afternoon, Ms. Williams.

13 A. Good afternoon.

14 Q. Could you tell the jury what you do for a
15 living, ma'am?

16 A. I'm a tactical officer.

17 Q. A tactical officer?

18 A. With the tactical control team with
19 Charleston County Sheriff's Office at the
20 detention center.

21 Q. Is that where you work, at the Detention
22 Center?

23 A. Yes, sir.

24 Q. How long have you been a tact officer at
25 the Detention Center?

1 A. Four years.

2 Q. What exactly does a tact officer do?

3 A. We pretty much perform every service
4 within the facility as far as involving Unit
5 1A.

6 Q. What is Unit 1A?

7 A. Unit 1A is the disciplinary unit that
8 houses disciplinary inmates and inmates under
9 protective custody.

10 Q. I'd like to direct your attention back to
11 December 7th of 2008. Did you have an occasion
12 through your job as a tactical officer at the
13 detention center to come into contact with the
14 Defendant, William Dickerson?

15 A. Yes, sir.

16 Q. Where was he housed at that time?

17 A. In Unit 1A, cell ---

18 Q. And who was his roommate in that cell?

19 A. John Williams.

20 Q. What was the tac team doing that week?

21 A. We were conducting searches of the unit.

22 Q. When you say "the unit" are you talking
23 about all cells in that unit, or just Mr.
24 Dickerson's?

25 A. All the cells.

1 Q. And what were you'all doing searches for?

2 A. We were just searching the unit for
3 anything that should not have been there. Just
4 a normal operation.

5 Q. Okay.

6 MR. BLOOM: Judge, just renew my
7 prior objection.

8 THE COURT: Yes, you've argued that
9 fully on the record. I sustained some of it
10 and we're moving forward now.

11 DIRECT EXAMINATION CONTINUED

12 BY BRUCE DURANT:

13 Q. I just want to get to the point of this
14 incident, Ms. Williams, where Mr. Williams --
15 when Mr. Dickerson and his roommate was coming
16 out of the room. Could you tell us was Mr.
17 Williams and Mr. Dickerson ordered to come out
18 of the cell for you'all to do your search?

19 A. Could you say that again?

20 Q. Were Mr. Williams and Mr. Dickerson
21 ordered to come out of the cell so that you'all
22 could do your search?

23 A. Yes, sir.

24 Q. Did Mr. Williams come out of the cell?
25 John Williams?

1 A. No, sir, he went back in.

2 Q. Tell us about that. What happened from
3 that point on is what we need to know.

4 A. He doubled back to go back in the cell,
5 Officer Asher, that's when he was immediately -
6 --

7 Q. Who was with you on that occasion?

8 A. Officers Walters, Officer Asher and
9 myself.

10 Q. There's a fourth member of your team named
11 Michael Huggins. Is that correct?

12 A. Yes, sir.

13 Q. What was Mr. Huggins doing?

14 A. He was popping the doors open.

15 Q. He was what?

16 A. Popping the doors, opening the doors to
17 the cells.

18 Q. The cell doors open electronically. Is
19 that correct?

20 A. Yes, sir.

21 Q. And where is that done from?

22 A. At the desk.

23 Q. So he was at the desk where you'all were
24 at the cell?

25 A. Yes, sir.

1 Q. Okay. Now, you said Mr. Williams started
2 coming out of the cell. Is that correct?

3 A. Yes, sir.

4 Q. Where was Mr. Dickerson when Mr. Williams
5 started coming out of the cell?

6 A. He was in the rear of the cell.

7 Q. And what did Officer Asher do when Mr.
8 Williams started coming out of the cell?

9 A. He was just standing right next to Mr.
10 Dickerson. He had his back to him, so he
11 couldn't actually see him when he ---

12 Q. Had his back to who?

13 A. Mr. Williams.

14 Q. Officer Asher had his back to Mr.
15 Williams?

16 A. Yes.

17 Q. And what did Mr. Williams do?

18 A. He turned back toward him with his arms
19 like this -- (demonstrating).

20 Q. Turned back towards who?

21 A. Officer Asher.

22 Q. What happened after Mr. Williams turned
23 back toward Officer Asher with his fist?

24 A. He was immediately grabbed by Officer
25 Walter. And then I assisted with pulling him

1 out of the cell.

2 Q. And what happened when you'all pulled Mr.

3 Williams out of the cell?

4 A. We were fighting at that time. When he

5 did that, Officer Asher came out of the cell to

6 assist with Mr. Williams. That's when Mr.

7 Dickerson came up behind Officer Asher, grabbed

8 him around his waist and took him to the

9 ground?

10 Q. And how did he take him to the ground?

11 A. He picked him up and threw him to the

12 ground.

13 Q. And that was Officer Asher?

14 A. Yes.

15 Q. And what happened after that?

16 A. Just as he was doing that, Officer Huggins

17 came from the desk to assist. And once he did

18 that, that's when Mr. Dickerson tried to get

19 ahold of Mr. Huggins as well. At that time I

20 was trying to grab his legs to keep him from

21 bracing against anything.

22 Q. What was he doing with Officer Huggins?

23 A. He had him around his neck.

24 Q. How?

25 A. Like this (demonstrating), and he was on

1 top.

2 Q. Kind of like this?

3 A. Well, Officer Huggins' body was like this.
4 His head was here. He was here. And he had
5 him like this.

6 Q. Around what part of him?

7 A. His neck.

8 Q. And what did you do then?

9 A. That's when I grabbed his legs to keep him
10 from bracing. I was trying to get a tighter
11 hold. I keep pulling his legs, pulling his
12 legs. When I did that, when I was able to get
13 ahold of his legs that's when Officer Huggins'
14 legs come out from underneath him. He and I
15 were still kind of tussling at that time.

16 Q. Were you able to subdue Mr. Dickerson?

17 A. Ultimately, yes, sir.

18 Q. Did you sustain any injuries in this
19 altercation?

20 A. No, sir. Officer Huggins did. His knee.

21 Q. Did Mr. Dickerson sustain any injuries in
22 this altercation?

23 A. Just like bruises.

24 Q. As a result of this incident what type of
25 security procedures are in place at the jail

1 regarding the Defendant, William Dickerson?

2 MR. BLOOM: Your Honor, I object to
3 that.

4 THE COURT: I sustain the objection.

5 BRUCE DURANT: Court's indulgence.

6 THE COURT: Certainly.

7 DIRECT EXAMINATION CONTINUED

8 BY BRUCE DURANT:

9 Q. Would you please answer any questions the
10 defense counsel may have for you?

11 A. Yes, sir.

12 THE COURT: Cross.

13 MR. CARROLL: May it please the
14 Court.

15 CROSS EXAMINATION

16 Q. This was a rather routine matter for the
17 officers there in that Unit; correct?

18 A. Yes, sir.

19 Q. And as you'all instructed Inmate Williams,
20 he started coming out of the cell. Is that
21 correct?

22 A. Yes, sir.

23 Q. And at some point, for some reason, he
24 turned around and headed back in?

25 A. Yes, sir.

1 Q. And as a result of that, he ended up on
2 the floor with all the officers then at the
3 time there on him in some capacity; correct?

4 A. Not all.

5 Q. Officer Asher had gone back to him;
6 correct?

7 A. Say that again.

8 Q. Officer Asher had come out of the cell
9 with Mr. Williams; correct?

10 A. After Officer Walters and I pulled him out
11 of the cell, Asher came up to assist.

12 Q. So at that point in time the officers
13 dealing with Mr. Williams would have been
14 yourself, Officer Asher and Officer Walters?

15 A. Officer Walters at the time was pretty
16 much in full fight with Mr. Williams. Mr.
17 Asher came up to assist with that. However,
18 like I said, when he made an attempt to assist
19 that's when he was grabbed him from behind.

20 Q. And Mr. Williams was seriously injured
21 during that; correct?

22 A. He had to be taken out.

23 Q. In fact, he had to be taken to the
24 hospital for treatment; right?

25 A. Yes, sir.

1 Q. And then he was brought back to the
2 Detention Center and later saw a nurse there,
3 correct?

4 BRUCE DURANT: Irrelevant, Your
5 Honor

6 THE COURT: Sustained.

7 CROSS EXAMINATION CONTINUED

8 BY MR. CARROLL:

9 Q. And it was during this incident when all
10 these officers were on Mr. Williams, that Mr.
11 Dickerson started pulling Officer Asher away?

12 A. Like I said, Officers Walters and I were
13 helping and Mr. Asher came to assist; however,
14 he was coming to assist and he was not able to
15 because, like I said, he was grabbed by Mr.
16 Dickerson from behind.

17 Q. During this routine procedure -- there's a
18 video recording system in Unit 1A; is there
19 not?

20 A. Yes, sir.

21 Q. To your knowledge was any video made of
22 this incident?

23 A. Not to my knowledge.

24 Q. And in the event that the hard-wired video
25 system in that room fails, there's also a hand-

1 held camera available, correct?

2 A. What do you mean by hard-wired camera?

3 Q. I mean one that's wired into the building.

4 A. Oh. Yes, sir.

5 Q. There's one of those and then there's a

6 hand-held camera that you can use also.

7 A. Yes, sir.

8 Q. And that wasn't used either, was it?

9 A. At that time it wasn't necessary for a
10 camera for that search.

11 Q. So the answer to my question would be no,
12 the camera wasn't used?

13 A. (Affirmative nod)-- no, sir.

14 Q. And at no point did anybody in this event
15 shut the door and lock the inmates inside the
16 cell?

17 A. At this point it all happened so quickly,
18 sir.

19 MR. CARROLL: Beg the Court's
20 indulgence.

21 THE COURT: Certainly.

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

24 THE COURT: Redirect?

25 BRUCE DURANT: I've got a couple

1 of questions.

2

REDIRECT EXAMINATION

3 BY BRUCE DURANT:

4 Q. What do you'all use the hand-held camera
5 for?

6 A. Sir?

7 Q. What do you'all use the hand-held video
8 camera at the detention center for?

9 A. Whenever we go out to the sally port for a
10 situation where they need assistance or if we
11 are actually going to do predetermined
12 searches.

13 Q. Had you gone to this cell, 1236A to do a
14 pre-determined search?

15 A. No, sir.

16 Q. When Mr. Dickerson jumped on the detention
17 officer's back, did you tell the other officers
18 to wait so that you could go get the security
19 camera?

20 A. No, sir.

21 Q. One other question. He asked you
22 something about just being able to shut the
23 door to the cell. If that was the case, why
24 couldn't you just shut the door to the cell?

25 A. Because everything happened so quickly and

1 he grabbed that officer. The officers that
2 were present, we were trying ---

3 Q. You'all were trying to engage with Mr.
4 Dickerson outside the cell?

5 A. Yes, sir.

6 Q. Thank you. I have nothing further.

7 THE COURT: Recross?

8 MR. CARROLL: Just briefly, Your
9 Honor.

10 RECCROSS EXAMINATION

11 BY MR. CARROLL:

12 Q. The hard-wired video system, that's there
13 to record everything, not just extraction?

14 A. That's to view the unit.

15 Q. And inexplicably, there's no video of that
16 unit to your knowledge; correct?

17 A. Sir?

18 Q. And inexplicably there's no video from
19 that unit that day, to your knowledge; correct?

20 A. Not that I am aware of.

21 MR. CARROLL: Thank you.

22 THE COURT: You may come down, Ms.
23 Williams. Thank you very much.

24 THE WITNESS: You're welcome.

25 THE COURT: Do you wish this witness

1 to be excused, Solicitor?

2 BRUCE DURANT: Yes, Your Honor.

3 THE COURT: Any objection?

4 MR. CARROLL: None, Your Honor.

5 THE COURT: You are also free to
6 leave.

7 (WITNESS EXCUSED)

8 THE COURT: Call your next witness.

9 RUTLEDGE DURANT: The State calls
10 Michael Huggins.

11 (WITNESS TAKES STAND)

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

15 DIRECT EXAMINATION

16 BY RUTLEDGE DURANT:

17 Q. Good afternoon, Mr. Huggins.

18 A. Good afternoon.

19 Q. Please tell the jury where you are
20 employed.

21 A. Charleston County Detention Center.

22 Q. And how long have you been employed at the
23 Charleston County Detention Center?

24 A. Two years.

25 Q. What is your role at the Charleston County

1 Detention Center?

2 A. I'm a tactical officer.

3 Q. What are your duties and responsibilities
4 there?

5 A. We are currently running operations in 1A.
6 We house mental health inmates, disciplinary
7 inmates and suicidal inmates.

8 Q. I want to direct your attention to
9 December the 7th of 2008. Do you remember an
10 incident involving the Defendant William
11 Dickerson?

12 A. Yes, sir.

13 Q. What was going on that day before that
14 incident started?

15 A. Officer Asher, Officer Williams and
16 Officer Walters were conducting cell searches
17 while I was at the desk which is located at the
18 front of the unit, doing cell searches.

19 Q. What attracted your attention?

20 A. I'd opened the door to cell 1236A where
21 Inmate Dickerson was housed. I heard a
22 commotion going on and I looked up and that's
23 when Inmate Williams came charging Office
24 Walters. Then I saw Officer Williams and
25 Officer Asher go to assist Officer Walters.

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1 Inmate Dickerson came up behind Officer Asher,
2 picked him up and slammed him to the ground.
3 That's when I got up from behind the desk, ran
4 down to assist them in taking Inmate Dickerson
5 down.

6 Q. And how did you do that?

7 A. I grabbed him by his waist and took him to
8 the ground. When we went to the ground I
9 actually landed on my back and he landed on top
10 of me.

11 Q. Were you inside the cell?

12 A. No, we were outside the cell.

13 Q. And who was with you outside the cell at
14 this point?

15 A. Officers Williams, Asher and Walters.
16 Officer Walters was currently engaged in
17 bringing Inmate Williams down.

18 Q. What happened when Mr. Dickerson took you
19 to the ground?

20 A. He landed on top of me and then he tried
21 to grab me around my throat and choke me. He
22 was successful in getting his arms around me
23 but he wasn't able to get a full latch on my
24 neck. Mr. Williams was at his feet, pulling
25 his feet from under him so he could not get his

1 weight on top of me.

2 Q. What did he put on your neck?

3 A. He put his arms around my neck. Had one
4 arm here and one arm was underneath the other
5 arm and tried to tighten up.

6 Q. And how did that feel?

7 A. He was cutting off the circulation.

8 Q. So what eventually happened?

9 A. Eventually Ms. Williams was able to keep
10 him from getting on top of me. I was able to
11 push from underneath him with my legs and able
12 to get above him and able to get my hands on
13 him.

14 Q. And was he eventually able to be
15 restrained?

16 A. Yes.

17 Q. Did you receive any injuries as a result
18 of this altercation?

19 A. Yes. As I pulled from underneath him my
20 knee popped out of place.

21 Q. Did that result in any kind of condition?

22 A. Yes, I had to have surgery in February.

23 Q. Were you able to return to work?

24 A. Not immediately. I was out for the month
25 of February and then I came back on March 9th,

1 and I've been on light duty ever since.

2 RUTLEDGE DURANT: Thank you, sir.

3 Please answer any questions the defense may
4 have.

5 THE COURT: Cross examine.

6 MR. BLOOM: May it please the Court.

7 CROSS EXAMINATION

8 BY MR. BLOOM:

9 Q. Officer Huggins, isn't it true this
10 dispute started because it appeared to you and
11 the other officers that Inmate Williams and
12 Inmate Dickerson weren't coming out of the cell
13 fast enough to suit you'all? Is that correct?

14 A. That I can't answer because I was at the
15 desk.

16 Q. You were at the desk?

17 A. Yes.

18 Q. And didn't some of the officers present
19 right there within your hearing start cursing
20 them and taunting them?

21 A. No.

22 Q. You didn't hear any of that?

23 A. No, sir.

24 Q. Isn't it correct one of the officers said,
25 'Hey, you two girlfriends, get your behinds out

1 of the cell' or something to that effect?

2 A. Once again, I can't say because I was at
3 the desk.

4 Q. So you don't know anything about your
5 fellow officers there at the door verbally
6 instigating this or turning this into ---

7 THE COURT: Hold on a second. Wait
8 a minute. Approach, please, Mr. Bloom.

9 (OFF RECORD BENCH CONFERENCE)

10 CROSS EXAMINATION CONTINUED

11 BY MR. BLOOM:

12 Q. Officer, let me ask you next, I think you
13 told us here today -- you gave a statement in
14 this incident; correct?

15 A. Yes, sir.

16 Q. At any time during the altercation between
17 an inmate and officer there's an investigation
18 into the situation; correct?

19 A. Yes.

20 Q. And the officers involved give statements;
21 correct?

22 A. Yes, sir.

23 Q. And you usually give it within a day or
24 two of the incident while your memory is fresh
25 and still on track as to what you recollect;

1 correct?

2 A. Yes, sir.

3 Q. Isn't it correct in your statement there's
4 nothing about a choke hold?

5 A. That's correct. In my statement there's
6 nothing about me being injured or taken to the
7 hospital either. I was in so much pain the day
8 I gave it I had to write a brief summary of
9 what happened. I was not able to put full
10 details into my statement.

11 Q. Yes, sir. But an allegation that an
12 inmate puts a choke hold on a detention
13 officer, that's a fairly serious allegation;
14 would you not agree?

15 A. Yes, sir.

16 Q. And the first time you said that is here
17 in this courtroom; correct?

18 A. Yes, sir.

19 Q. That's nowhere in your written statement;
20 correct?

21 A. Yes.

22 Q. And you're at the Detention Center five
23 days a week, I take it, as a full-time
24 employee?

25 A. Right now I'm on light duty.

1 Q. And you could have amended or supplemented
2 your statement; correct?

3 A. Correct, a day later.

4 Q. You could have supplemented it at any
5 time. You could have done that at the follow-
6 up hearing where the inmate is disciplined
7 internally; correct?

8 A. Correct, but I did not return to work
9 right away.

10 Q. I understand that. When did you return to
11 work?

12 A. I don't know when our next day started for
13 the shift. I was transported straight to
14 Roper.

15 Q. So you reported to work within several
16 days after that?

17 A. Yes, sir.

18 Q. So you weren't hospitalized for like
19 weeks?

20 A. No, sir.

21 Q. And since that time -- let me go back.
22 There was a hearing where the inmate was
23 disciplined; correct?

24 A. Yes.

25 Q. The hearing officer at the Detention

1 Center, you know wants all the information
2 available at their fingertips so they can
3 decide what disciplinary action is going to be
4 taken; correct?

5 A. Yes.

6 Q. And at no time from the incident up until
7 that hearing and until today did you ever say
8 anything to anyone about a choke hold. Isn't
9 that correct?

10 A. Not in a statement.

11 MR. BLOOM: The Court's indulgence.

12 THE COURT: Certainly.

13 CROSS EXAMINATION CONTINUED

14 BY MR. BLOOM:

15 Q. Officer Huggins, you're aware that there
16 is a video camera in the ceiling of that unit
17 which records the activities in there; correct?

18 A. Yes, sir.

19 Q. And that's there for security and safety
20 and a whole host of reasons; correct?

21 A. Yes, sir, but we do not control the
22 camera.

23 Q. And then for some reason that day you know
24 that it was not working from approximately
25 10:00 to 11:45 a.m. when this incident

1 occurred?

2 A. No, sir, I don't know. We do not control
3 that camera.

4 Q. You're not aware of any video that was
5 made of this incident. Is that fair to say?

6 A. (Affirmative nod), not that I know of.

7 MR. BLOOM: Court's indulgence.

8 THE COURT: Certainly. Take your
9 time.

10 MR. BLOOM: Thank you very much. No
11 further questions.

12 THE COURT: Redirect.

13 REDIRECT EXAMINATION

14 BY RUTLEDGE DURANT:

15 Q. Is Cellblock 1A the area that houses
16 inmates with the highest level of physical
17 involvement?

18 MR. BLOOM: I'm going to object to
19 that, Your Honor, and ask to take up a matter
20 of law. That's totally improper.

21 THE COURT: Ladies and gentlemen,
22 I'll let you go to your jury room for just a
23 moment. Don't begin your deliberations. Don't
24 discuss this case among yourselves.

25 (JURY OUT @ 3:25 P.M.)

1 THE COURT: Mr. Bloom?

2 MR. BLOOM: Your Honor, in *State v.*
3 *Burkhart* our Court has firmly said that certain
4 criminal positions are not admissible for any
5 purpose. There's a fine line between the State
6 needing to show appropriate evidence regarding
7 conduct as well as the Defendant's right to
8 prevent that introduction.

9 For the Solicitor getting to ask or
10 attempting to ask if Unit 1A is for inmates who
11 have high levels of disciplinary conduct is
12 wholly improper under *Burkhardt*.

13 First of all, that's not something Mr.
14 Dickerson had any control over, what other
15 inmates were housed there for. He was housed
16 there obviously. But that's not appropriate,
17 given those types of conditions. He's not in
18 control of that.

19 Indeed, up until this point there had
20 not been a single assault of another officer or
21 staff member. I strongly object to that line
22 of questioning under *Burkhardt* as well as under
23 16-3-25 of the South Carolina Code.

24 THE COURT: Thank you. Response?

25 SOLICITOR WILSON: Your Honor,

1 that specific question was in response to the
2 cross examination of Mr. Bloom where he crossed
3 this witness on basically why he didn't include
4 information or alter his report so that other
5 disciplinary decisions could be carried out
6 against this Defendant. The fact of the matter
7 is he was already at the highest level that he
8 could be.

9 I think he opened the door to that.
10 In addition, it was a question that hasn't been
11 answered. And finally, I object to the
12 speaking objection. We've done very well
13 throughout this trial and we haven't had the
14 necessity for that kind of commentary.

15 THE COURT: Thank you, Solicitor.
16 We're all getting tired and testy a little bit,
17 understandably. But let's continue to use the
18 objection with one word and we'll make the
19 arguments outside the presence of the jury.
20 That's noted, and I don't think we'll have any
21 more problems with that.

22 It's -- why it was stopped before is
23 because it opens Pandora's Box. We have a
24 multitude -- he could housed there because he's
25 being charged and being on trial for his life.

1 I mean, there are any number of reasons why
2 he's in that setting. So it's inappropriate.
3 It's an inference that it's improper. There
4 are some cases where it's created reversible
5 error. So you can't do that.

6 SOLICITOR WILSON: Judge, I just want
7 to make ---

8 THE COURT: It's not in response to
9 a question about why he didn't make a report.
10 He's answered the report. He said he went for
11 medical treatment. He responded. It didn't
12 have anything to do with where he was. I
13 appreciate it. There's no need to go into
14 that. You just don't need that.

15 SOLICITOR WILSON: I hear you. I
16 just want the record to be clear as to what our
17 reasoning was.

18 THE COURT: I understand your
19 reasoning. I'm just not going to allow it. I
20 mean it doesn't matter.

21 SOLICITOR WILSON: Okay.

22 THE COURT: So withdraw that
23 question. I'll tell the jury to disregard the
24 question when they come back and we'll go from
25 there. Okay? Although to be honest with you,

1 it came out unsolicited in the first witness
2 who testified.

3 SOLICITOR WILSON: And this
4 witness.

5 THE COURT: I understand. So it's
6 there, but we're not going to heighten that.

7 SOLICITOR WILSON: Sure. Judge,
8 this will be our last witness for the day. The
9 next witnesses we have are -- there's one
10 matter of law that we have after that.

11 THE COURT: We don't have any more
12 that we can call?

13 SOLICITOR WILSON: No, sir.

14 THE COURT: All right. Let's take
15 about five minutes then before we start back.
16 Before we do that, we had a sidebar concerning
17 an objection to a line of questions from Mr.
18 Bloom. We want to put that on (the record) as
19 well. It was the Court's opinion and feeling
20 that the questions were getting close to going
21 into the area that I had purposely tried to
22 carve out of this, and that is some of the
23 assertions about which we've taken -- about
24 which we've taken an abundance of testimony
25 concerning what precipitated certain actions on

1 the part of the inmates as well as the
2 officers. As I believe I narrowed this to an
3 action that needed simply -- we asked the
4 questions about coming to the defense of
5 somebody. I understand that and I think that's
6 fair game. But that was the issue of whether
7 this person should have responded and subjected
8 himself to the fray when he didn't have to.
9 But there really wasn't -- we didn't get into
10 the area that you had asked a couple of
11 questions which were borderline about provoking
12 his attack, and I didn't stop that. But that's
13 as far as I wanted that to proceed.

14 Also, you had mentioned in the sidebar
15 that you had a disciplinary matter concerning
16 Mr. Huggins that you possibly wanted to explore
17 concerning anger management, I think you said.
18 And my rationale for that was that this witness
19 was really on the periphery of everything and
20 he only involved after the altercation
21 occurred. Therefore, I think the prejudice
22 outweighs any probative value as to any of the
23 issues that we are trying. So I assume you
24 don't want to proffer that line of questioning
25 to this witness now?

1 MR. BLOOM: Not after the Court's
2 ruling.

3 THE COURT: You're okay with not
4 pursuing that then?

5 MR. BLOOM: Yes, sir.

6 THE COURT: Thank you. Let's take
7 about five minutes. Anything else we need to
8 supplement concerning the bench conference?

9 SOLICITOR WILSON: No, sir. I think
10 we'll be through with this witness and then ---

11 THE COURT: I hate for him to sit
12 for just a minute.

13 SOLICITOR WILSON: I'm just saying
14 we could let the jury go.

15 THE COURT: Okay, well, that's a
16 good idea. I am just thinking out loud.

17 If you want to do that, that's good.
18 I'm not thinking out loud. Let the jury come
19 in.

20 I assume you're not going to have any
21 more questions? And since that's withdrawn,
22 there's no re-cross; correct?

23 MR. BLOOM: I'm done.

24 (JURY IN @ 3:32 P.M.)

25 THE BAILIFF: The jury is present,

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1 Your Honor.

2 THE COURT: Thank you, please be
3 seated. Thank you. I sustained the objection,
4 and you will disregard the question. We know
5 that's part of the process. I sustained that,
6 so that's not a matter for your consideration
7 when you do begin your deliberations.

8 As I understand, Mr. Durant, you have
9 no further questions.

10 RUTLEDGE DURANT: That's correct,
11 Your Honor.

12 MR. BLOOM: Nothing further, Your
13 Honor

14 THE COURT: Thank you, Mr. Huggins,
15 you may step down.

16 (WITNESS STEPS DOWN)

17 THE COURT: All right, Ladies and
18 gentlemen, there are several matters of law
19 that I need to discuss out of your presence
20 before we hear the next witness. There may be
21 some length to this discussion. So I'm sorry
22 to inform you that you're going to get an early
23 day, and you'll get to stop a little early.

24 So that you will feel comfortable, we
25 will complete this case this week. It's not

1 going to be a matter that will go on into
2 another week. This case will be to you and
3 your services resolved by the end of the week.
4 I'm confident of that. So it's not a matter
5 that we would be carrying it out. I hope
6 you'll enjoy the afternoon and relax. We've
7 gone through sixteen witnesses today, so that's
8 good. Thank you for your attention. Have a
9 good evening.

10 Please remember that you are not to
11 watch anything, watch any news programs.
12 You're not to read any accounts. Certainly you
13 must continue not to talk with anyone or permit
14 anyone to talk with you. Have a good evening
15 and be in your jury room at 9:30 in the
16 morning. Thank you very much.

17 (JURY OUT @ 3:35 P.M.)

18 THE COURT: Thank you. Please be
19 seated. Have they gotten all of the mold out
20 of this building? My eyes just burning. I
21 don't believe all the mold is out of this
22 building. When I'm in here, my eyes just
23 starting going -- crazy.

24 All right, before we get into any matters
25 from the State you want to get into the

1 photographs?

2 SOLICITOR WILSON: No, sir, just
3 those. Then I also have several of the victim
4 for victim impact that we need to address.

5 THE COURT: Have you shared those
6 with them at this point?

7 SOLICITOR WILSON: They have not
8 seen them.

9 THE COURT: Why don't you'all talk
10 about that? You've looked at the photographs?

11 MR. BLOOM: I've looked at the
12 photographs she has handed up and you have in
13 your hand.

14 THE COURT: Let's take about five
15 minutes or so and then we'll come back and
16 we'll take up those matters. Thank you. We'll
17 be at ease.

18 (BRIEF RECESS)

19 (DEFENDANT PRESENT)

20 SOLICITOR WILSON: If we could go
21 on just for a second.

22 THE COURT: Sure.

23 SOLICITOR WILSON: Judge, I've
24 handed up a number of pictures over the break.
25 And, uh, just as we came in the Court asked me

1 if I was intending to offer all of them. I've
2 taken some out. And for the record, I will
3 withdraw these exhibits, but I'd like for them
4 to still be a part of the record.

5 THE COURT: Sure. No problem.

6 SOLICITOR WILSON: State's 157,
7 163.

8 THE COURT: These are for I.D. only,
9 I think.

10 SOLICITOR WILSON: Right. 179,
11 180, 182, 183, 165, 166, and 168. There are
12 several of those that I think I can get through
13 other pictures without being redundant.

14 COURT REPORTER: For identification.

15 THE COURT: Okay.

16 SOLICITOR WILSON: The pictures of
17 the eyes, I don't think -- I think that's
18 probably a little much, the ones of the eyes.
19 There is another grouping that -- State's 140,
20 141, 142 which -- and 143, which are all
21 pictures, photographs of the victim's rectal
22 area. I don't believe I need all of these. I
23 do believe I need one.

24 THE COURT: Pick the one that you --
25 I would agree with you, I think that while

1 obviously it's extremely inflammatory in many
2 ways it obviously goes to the issue of the
3 torture issue for sure. I think it's
4 probative. I'll see which one you're picking.

5 SOLICITOR WILSON: 141 would be
6 the one I would pick, and I'll need to consult
7 with Dr. Schandl on it to make sure it shows
8 what I think it shows.

9 THE COURT: Okay.

10 SOLICITOR WILSON: That's this
11 one, (displaying State's Exhibit 141), and that
12 corroborates her testimony regarding the
13 abscess and which gets into the torture and the
14 eighteen hours. I believe that will be the
15 best one to show that.

16 THE COURT: All right.

17 SOLICITOR WILSON: And then the
18 ones that we would forego, if we're going to be
19 just picking one, would be - we would then not
20 offer State's 140, 141, 142 and 143. Unless
21 for some reason, and we'll know this in advance
22 -- she tells us that -- that doesn't show what
23 I thought it shows.

24 THE COURT: All right.

25 SOLICITOR WILSON: Your Honor,

1 State's 176 and 181 are a little bit redundant.
2 And I think 181 gives a better view of the
3 overview of the head. So I would forego 176.

4 THE COURT: Okay.

5 (SO ENTERED AS STATE EXHIBIT 181)

6 SOLICITOR WILSON: I'm trying to
7 do ones that the Court might think are
8 redundant.

9 THE COURT: That's fine.

10 SOLICITOR WILSON: I don't believe
11 that State's 175 and 335 are redundant. But
12 because State's 175 shows the face and this
13 area after shaving, State's 335 would be the
14 condition the victim was in.

15 THE COURT: I think that picture,
16 335, has more probative value for that purpose
17 than the other one.

18 SOLICITOR WILSON: So 175 would
19 not be offered. 335 would.

20 (SO ENTERED AS STATE'S EXHIBIT 335)

21 THE COURT: Let me ask you, Mr.
22 Bloom, do you object to all photographs?

23 MR. BLOOM: I think it's incumbent
24 upon me to do so.

25 THE COURT: Okay. We've clearly

1 recognize that in a number of situations. I've
2 read through most of the notes again, and I've
3 found that that's pretty much consistent with
4 the Court's decisions time and time again. But
5 I understand your objection and it is noted,
6 for various reasons.

7 SOLICITOR WILSON: Judge, we would
8 seek State's 177 and 178, which are the right
9 side and then the left side, and then going
10 through the victim's injuries showing the
11 injuries he sustained. We don't have these
12 photographs at the crime scene. I think these
13 actually are less gory when he's been cleaned
14 up.

15 THE COURT: She's going to testify
16 to the various markings that we see and the
17 significance of them?

18 (SO ENTERED AS STATE'S EXHIBITS 177)

19 (SO ENTERED AS STATE'S EXHIBIT 178)

20 SOLICITOR WILSON: Right. And then
21 State's 166 and 167, again one is further away
22 and one is closer up. I don't need both, but I
23 do need one.

24 THE COURT: Why don't you take the
25 one that shows -- that shows more information

1 on it; doesn't it?

2 SOLICITOR WILSON: Okay. 166.

3 THE COURT: Number 166.

4 (SO ENTERED AS STATE'S EXHIBIT 166)

5 SOLICITOR WILSON: So we will
6 forego State's 167.

7 THE COURT: Right.

8 SOLICITOR WILSON: And that's a
9 similar situation, I believe, in 153 and 154.
10 I think I can get out of 153.

11 THE COURT: I think 153 shows really
12 more evidence and is more probative than the
13 other. Both of those seem to focus on
14 something that's not necessarily the issue.

15 (SO ENTERED AS STATE'S EXHIBIT 153)

16 SOLICITOR WILSON: Number 336 is a
17 photograph of the victim's back which the
18 pathology will testify regarding -- we heard a
19 little bit about this in the guilt phase -- but
20 regarding the types of injuries that we see
21 across his back. Again, there's very little
22 blood or internal tissue showing in that one.

23 THE COURT: Okay.

24 (SO ENTERED AS STATE'S EXHIBIT 336)

25 SOLICITOR WILSON: 161 and 162 are

1 shots of both the right and left arms.

2 THE COURT: Okay.

3 SOLICITOR WILSON: On 161 you can see
4 the area regarding the break in the wrist. And
5 then you can see various cuts in State's 162 in
6 different arms.

7 (SO ENTERED AS STATE'S EXHIBIT 161)

8 (SO ENTERED AS STATE'S EXHIBIT 162)

9 SOLICITOR WILSON: State's 169, what
10 I was trying to show is another part of the
11 arm, again going to the torture aspects, where
12 there are cuts that would not be life-
13 threatening. And I just wanted to be able to
14 show that area of the victim's arm.

15 THE COURT: Is that shown in other
16 pictures?

17 SOLICITOR WILSON: I don't think
18 -- the other ones, I believe, were underneath.

19 THE COURT: I think they were.

20 SOLICITOR WILSON: So this is of
21 the forearm.

22 THE COURT: Okay.

23 SOLICITOR WILSON: I'm fine with
24 either one, and I can crop this if you choose
25 160?

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1 THE COURT: Let's crop it.

2 SOLICITOR WILSON: So we'll forego
3 169.

4 THE COURT: And there is no
5 objection to altering the picture that has been
6 marked?

7 MR. BLOOM: No, sir, not to altering
8 it in that respect. I would still reserve out
9 objection.

10 THE COURT: Absolutely, I understand
11 that.

12 (SO ENTERED AS STATE'S EXHIBIT 160)

13 SOLICITOR WILSON: I don't believe
14 we need State's 170. State's 171 and 172 are
15 the top of the victim's hands. And I think
16 these as well as another one that's coming up,
17 173, show the struggle of the victim,
18 especially the broken nails, bloody nails and
19 the cuts that were on the hands, especially in
20 light of some of the co-defendant's testimony
21 that he was just kind of there. I think
22 State's 171, 172 and 173 are very probative as
23 to him fighting for his life.

24 (SO ENTERED AS STATE'S EXHIBIT 171)

25 (SO ENTERED AS STATE'S EXHIBIT 172)

1 (SO ENTERED AS STATE'S EXHIBIT 173)

2 THE COURT: Okay.

3 SOLICITOR WILSON: Your Honor,
4 there was testimony regarding a burn to the
5 scrotum. State's 184 is a photograph of that
6 burn. I know that's an ugly picture, but I
7 believe it's also probative.

8 (SO ENTERED AS STATE'S EXHIBIT 184)

9 SOLICITOR WILSON: I believe we've
10 already got other pictures of the legs, so
11 we'll forego State's 164, 165 and 168.

12 There's one left that I want to ask
13 the pathologist about. It's not a gory
14 picture, but I just noticed as I was putting
15 these together the concave area of the victim's
16 abdomen. It may just be the way he was lying
17 and rigor. I don't know if there's some
18 significance -- that you see right there
19 (indicating).

20 THE COURT: I see that.

21 SOLICITOR WILSON: I just want to ask
22 her about that and see if there's anything
23 probative as to that.

24 THE COURT: That's fine.

25 COURT REPORTER: That number is?

1 SOLICITOR WILSON: That would be
2 159.

3 (SO ENTERED AS STATE'S EXHIBIT 159)

4 SOLICITOR WILSON: We tried to
5 select photographs that were not redundant and
6 that would be probative as to the torture and
7 to the circumstances outside of torture, even
8 the circumstances of the victim's death and the
9 characteristics of the Defendant inflicting
10 these types of wounds.

11 THE COURT: Okay. Let me see the
12 photographs in collection again.

13 SOLICITOR WILSON: That's the one
14 (State's Exhibit 159) in question.

15 THE COURT: You've had a chance to
16 view these photographs?

17 MR. BLOOM: I have, yes, sir.

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

20 MR. BLOOM: Your Honor, our
21 objection is that there are fifteen photo-
22 graphs, if I counted correctly. We submit
23 that's excessive and tends to become more
24 prejudicial than probative as well as
25 introducing essentially arbitrary and

1 capricious evidence. They're color photo-
2 graphs, glossy. They're not the standard four-
3 by-six. They're blow-ups of approximately ten
4 inches to twelve inches. They are, in our
5 view, excessive.

6 And I point out, in our cross
7 examination of Dr. Schandl regarding the
8 autopsy we never touched on any of the wounds.
9 So the State is attempting to use photographs
10 to prove testimony -- and I presume additional
11 testimony by Dr. Schandl -- that has not been
12 contested in any manner whatsoever. I think
13 that the photographs of the rectal area and the
14 scrotum are particularly prejudicial and
15 offensive. And the sheer accumulation of
16 photographs, it's not a mere one or two or
17 three or four. There's fifteen or so, so it
18 becomes cumulative and prejudicial at this
19 juncture.

20 I particularly note again where we
21 have not contested Dr. Schandl's testimony and
22 the way she described it. Indeed the -- Dr.
23 Schandl, I think, was able to use black-and-
24 white charts and graphs and drawing during her
25 testimony to describe the injuries. Giving the

1 jury photographs such as this would have the
2 effect of inflaming the jury causing more
3 passion and prejudice. Thank you.

4 THE COURT: Thank you. Do you wish
5 to be heard?

6 SOLICITOR WILSON: Judge, again,
7 when you look -- I was really hoping to stay
8 away from this arbitrary number of whether it's
9 two photos or five photos or fifteen photos.
10 What we're trying to do is to introduce photos
11 that are probative as to the nature of the
12 crime, the nature of the torture. The victim
13 sustained extreme injuries, and I think there's
14 going to be extreme evidence regarding those
15 injuries.

16 I know that in the *Franklin* case there
17 were seventeen photographs. But all that --
18 picking a number out of the blue, I don't think
19 that's what it is. We pared them down. We had
20 them blown up and what I hope is, if I can get
21 it going, is that we don't have to put it up on
22 the big screen. What I want to do and the
23 reason I had them blown up is so that I can try
24 to have the pathologist go over these things
25 with the photos on an easel instead of having

1 them blow up to, you know, four feet by six
2 feet. And we're going to try that in the
3 morning.

4 I think in light of the over two
5 hundred -- over two hundred wounds that this
6 victim sustained that these photos aren't over
7 the top and will be done as "tastefully" as we
8 can do them, while still showing the jury what
9 the victim sustained and the character of the
10 Defendant as indicated by such brutality.

11 THE COURT: Okay. Anything further,
12 Mr. Bloom?

13 MR. BLOOM: Nothing further, Your
14 Honor.

15 THE COURT: Thank you very much.
16 Obviously, the Court has been confronted, as I
17 mentioned, on numerous occasions with this
18 topic. I agree we really don't get into the
19 counting. I think the key and what I'm
20 required to do in balancing the proof aspects
21 that the State's entitled to in this bifurcated
22 proceeding is to make sure that the photographs
23 are not unfairly prejudicial so as to outweigh
24 the probative value, which then makes the
25 decision based more on emotional decisions than

1 on the substantive decision.

2 We have excluded a number of photo-
3 graphs, and we've tried, and I think fairly --
4 to the extent it's proper, I won't say that
5 there are not parts of the body shown in other
6 photographs. But each photograph, and while
7 there are this many, it just shows the
8 extensive injury that this person inflicted on
9 the victim. I don't know any other way to
10 present it than to do this.

11 The photographs are not in the fashion
12 that have been ruled to be inadmissible and an
13 error in *Franklin* and in *State v. Franklin*,
14 one, *State v. Gary Patrick* where there was a
15 tremendous amount of blood present, something
16 gory that would be neither as noted in *John*
17 *Babe Ray v. State*, no error in admission of
18 eleven color photographs or copies of autopsy
19 photos of the victim depicting the body in a
20 cleaned-up state. And that's clearly where we
21 are, which I think if there is such a thing as
22 being tasteful, it's as tasteful as it can be
23 given the circumstances and the subject matter.

24 I find the photographs that we have
25 probative to the issue of -- many issues, the

1 character of the Defendant, the circumstances
2 of the crime, and the one part that still
3 remains; that is, the torture aspect for this
4 victim. This probably sets it out as clearly
5 as anything I can imagine as to what this
6 person may have had to endure. And we're going
7 to have somebody -- a competent person who's
8 going to describe what's taken place.

9 So it clearly becomes -- while it
10 certainly has some emotional impact, the
11 substantive part is very -- I think when you
12 take these photographs in conjunction with the
13 testimony of the pathologist it becomes
14 extremely probative. I don't find it to be
15 cumulative. I think the numbers speak for the
16 number of injuries, not the numbers of
17 photographs. So for all those reasons, your
18 objection is noted and the basis protected. I
19 will admit these photographs that we have.

20 You've already called them out, or do
21 you want me to run through them again? And
22 we'll just go ahead and have them marked. When
23 she identifies them we'll introduce them,
24 subject to the objection. But each time we can
25 -- we'll do it however you feel more

1 comfortable, Mr. Bloom. If you want to restate
2 your objection or we'll just note that the
3 objection is to each of these photographs that
4 will be shown to Dr. Schandl there will be a
5 running objection to each one of them.

6 MR. BLOOM: I accept the latter.

7 THE COURT: And I'll just simply say
8 they're admitted subject to objection of
9 counsel. And I think that will cover it.

10 MR. BLOOM: Thank you.

11 THE COURT: Thank you, Solicitor.

12 SOLICITOR WILSON: Thank you.

13 Judge, also, in another vein as far as the
14 photographs go, I showed Mr. Bloom a board that
15 the family had created for the victim at the
16 funeral. I believe Mr. Bloom's objection is the
17 number of photos and its cumulative -- I don't
18 want to speak for him.

19 MR. BLOOM: Well, several
20 objections. One, again, it's more prejudicial
21 than probative. There are thirty photos on the
22 poster board. And I understand the poster
23 board was, in fact, a memorial at the funeral
24 service. My objection goes to the nature of
25 that as well, especially to some thirty-five

1 photos as being cumulative. It's extremely
 2 prejudicial to the jury and it's not intended
 3 to admit anything that the State -- it just
 4 appeals to the passion and prejudice of the
 5 jury. *Payne v. Tennessee* has some limits to
 6 it, too. It is not intended to admit anything
 7 that the State wants covered but it seems to me
 8 to be excessive.

9 THE COURT: That's where I thought
 10 we had the best way to contain this, that it
 11 was a better way to deal with this. But
 12 clearly they've opened -- they've said that's
 13 permitted. Where you draw the line, if you can
 14 point me to a case -- because I've looked for
 15 them and I haven't been able to find it -- that
 16 really gives you kind of a bright line test as
 17 to where 'this is over the line and this is
 18 not.' I don't think there is.

19 I think, first of all, I would agree
 20 with you that there if there are persons --
 21 there will be no testimony about this being set
 22 up at his funeral.

23 SOLICITOR WILSON: There doesn't have
 24 to be.

25 THE COURT: I would like that not to

1 be, because that then goes into something that
2 doesn't need to be put into it. It's a collage
3 showing this man's life. And, frankly, I think
4 -- I don't find it unduly prejudicial. I find
5 it kind of really to be a tasteful presentation
6 of it. So if that -- we're not having any
7 other photographs other than these, are we, of
8 his life?

9 SOLICITOR WILSON: Your Honor,
10 there are some that were not included -- just a
11 couple that were more recent than these. Three
12 others.

13 THE COURT: Are they different
14 persons? I'm just looking at the one corner
15 with the Navy -- the picture of him in his Navy
16 uniform? Just different family members?

17 SOLICITOR WILSON: The victim and
18 his mom, the victim with his mom and his aunt.
19 I'm not sure who the two ladies are. The
20 victim with his dad. The victim by himself.
21 The victim with his mom and dad.

22 MR. BLOOM: Judge, if I may say
23 this, and I don't mean to demean the victim,
24 and please don't construe my objection as that,
25 but the Solicitor is aware of the victim's Navy

1 record and that he received bad conduct
2 discharge. The problem, I think, with putting
3 the photographs of him in his Navy uniform
4 really starts to border on a *Napue* violation,
5 the Supreme Court, relaying misleading
6 information to a jury. I know that is not the
7 intent but it tends to border on that.

8 I don't want to have to get put in a
9 position where I am forced to cross-examine a
10 victim's family member to acknowledge that he
11 received a bad conduct discharge. I know that
12 I'm not put in that position.

13 THE COURT: Let me ask you a
14 question, because I've not read that case, so I
15 don't quarrel with the philosophy behind it --
16 and excuse me for interrupting you. Does that
17 case say that you can't do that because it puts
18 the defendant in the position where they have
19 to ask a very tough cross examination question?

20 MR. BLOOM: No, sir.

21 THE COURT: Okay.

22 MR. BLOOM: No, sir. *Napue v.*
23 *Illinois* and its progeny are similar to *Brady*
24 in that the jurors are not supposed to be
25 presented with testimony that is known to be

1 misleading or inaccurate.

2 THE COURT: I agree with that. The
3 photographs showing that, to me that's what
4 cross examination is all about. It brings in
5 the other part of this story. 'Well, you have
6 some photographs, but isn't it a fact that he
7 was dishonorably discharged.'

8 I know that's not a pleasant question
9 to have to ask, but I don't think that makes it
10 inappropriate because it's an unpleasant cross
11 examination question.

12 I understand the setting, and that's
13 one of the problems with this whole second
14 phase. But the bottom line is you still have a
15 right to challenge that photograph. So I don't
16 think it -- I don't think -- if the inference
17 to the jury is not complete, then there's
18 something you chose strategically not to do.
19 So I don't know that it creates -- I don't
20 think it creates that he was -- let me give you
21 -- this would be an extreme, but showing his
22 metal, holding up his medals, then yeah I would
23 agree with you. But this is a photograph of a
24 person in uniform. Frankly looks like it's
25 probably an entry level uniform is what it

1 appears to be.

2 I guess my question would be do you
3 need all of the photographs showing basically
4 the same setting?

5 SOLICITOR WILSON: No. We don't.

6 THE COURT: And if you could remove
7 duplications, such as the photograph showing --
8 for example, we don't need one with the mom and
9 then one with the mom and aunt. Okay? That's
10 just an example.

11 SOLICITOR WILSON: What I may have to
12 do then, Judge, is abandon that. Because I
13 don't want to destroy that.

14 THE COURT: I understand that. Go
15 to Plan B.

16 SOLICITOR WILSON: Yeah. So there's
17 that.

18 COURT REPORTER: Have those been
19 premarked?

20 SOLICITOR WILSON: They have not
21 been marked yet, I'll give them to you in just
22 one second.

23 THE COURT: Those photographs, I
24 don't have a problem with any of those. The
25 photograph of the victim holding children, and

1 then one of -- is that him in his band uniform?

2

3 SOLICITOR WILSON: Yes.

4 THE COURT: And a picture of him in
5 a band uniform.

6 SOLICITOR WILSON: No objection to
7 this?

8 MR. BLOOM: No, ma'am. We'll get
9 these marked. I think we've agreed, Your
10 Honor.

11 THE COURT: So we may not use the
12 board, but use this then?

13 SOLICITOR WILSON: Yes.

14 THE COURT: That's good. That's
15 safer. How many family members do you plan to
16 have?

17 SOLICITOR WILSON: Two.

18 THE COURT: Good. That's where I
19 will cut.

20 SOLICITOR WILSON: I don't think I
21 need more.

22 THE COURT: And that's no problem.
23 Two is fine. But when we start bringing in
24 five and six family members talking about it, I
25 think we've gone over the top. I don't know

1 that there's a magic number, but two is good.
2 I can live with two.

3 You anticipate your part to be completed
4 before lunch?

5 SOLICITOR WILSON: I was going to
6 say 10:30.

7 THE COURT: That's fine.

8 SOLICITOR WILSON: But I don't
9 think it'll take too long.

10 THE COURT: You will be ready to
11 call your first witness when they finish?

12 MR. BLOOM: Yes, sir. We'll be
13 ready to start tomorrow. We'll try to be
14 prepared to go right up to 6:00 o'clock.

15 THE COURT: Do you have a list of
16 witnesses that you intend to call? Or are you
17 calling everyone that you listed?

18 MR. BLOOM: Probably not. We've
19 culled that some. We'll still probably have
20 somewhere in the neighborhood of twenty or so.
21 A lot of them will be short witnesses. I've
22 tried to prepare them. But we'll be prepared
23 to go hopefully right up to 6:00 tomorrow and
24 right until 6:00 Wednesday. I anticipate,
25 depending on their cross examination,

1 specifically of our expert witnesses, that we
2 could conclude Wednesday by 6:00, or maybe
3 spill over into Thursday morning. I don't
4 think we'll go into Thursday morning, but would
5 conclude Thursday by lunch and
6 possibly/probably Wednesday by 6:00.

7 THE COURT: Let's keep moving and
8 we'll move it as quickly as we can. Thank you
9 very much. Anything else from the State before
10 we recess?

11 SOLICITOR WILSON: No, sir. If I
12 could just take those photos that are left so
13 that I can get organized with those?

14 THE COURT: I don't think I have
15 any. Okay. Anything from the Defendant before
16 we recess?

17 MR. BLOOM: No, sir.

18 THE COURT: Thank you very much.
19 We'll see you in the morning at 9:30.

20 (COURT IN RECESS)

21 (TRANSCRIPT CONTINUED NEXT PAGE)

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

1 MAY 5, 2009 9:30 A.M.

2

3 (DEFENDANT PRESENT)

4 THE COURT: Is the Defendant ready
5 to proceed?

6 MR. BLOOM: Yes, sir, Your Honor.

7 THE COURT: Thank you very much.

8 Good morning to you all as well. Solicitor,
9 good morning. Let's bring in our jury. Our
10 punctual jury. They've been amazing to me.
11 They have been on time every single day, and I
12 think that has a lot to do with the guys that
13 have been meeting them and bringing them up
14 here. Thank you'all for that, too.

15 Just for your information, and the
16 Clerk has agreed, we are going to provide lunch
17 for the jury for the next two or three days,
18 whatever it may be. I thank the Clerk for
19 that, too.

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

21 THE BAILIFF: Jury is all present,
22 sir.

23 THE COURT: Thank you very much.
24 Thank you. Please be seated. Thank you very
25 much, Ladies and Gentlemen. I was just

1 commenting, because it's not something that you
2 always have but I've been pleasantly surprised
3 and really amazed -- and thank you -- every
4 morning you are there on time. That says
5 something. I assure you that's not always --
6 that doesn't always happen. Thank you for
7 that. Thank you for being that kind of person
8 and that's just what we thought. And I
9 appreciate that very, very much.

10 Also, the Clerk of Court has been kind
11 enough to offer something, and I offer it to
12 you and hope that it suits you. If it doesn't,
13 you don't have to but we would like to provide
14 lunch for you. We believe, in talking, that
15 the case will go through today and probably
16 through tomorrow, at least, insofar as
17 testimony. And we would like to provide lunch
18 for you. And we're making arrangements. I
19 hope that's okay with you all. Certainly
20 you'll have someone with you. I think that two
21 of the deputies will accompany you. But we'll
22 provide lunch and you'll be able to sit
23 together. That's one little thing we can do
24 and say thank you as well for what you're
25 doing. We appreciate that.

1 I hope you had a good evening, and we
2 are ready now to resume. And before resuming,
3 as we have been doing, I need to ask do each of
4 you solemnly swear or affirm that at all times
5 since we were together yesterday you have
6 observed the Court's instruction, and
7 specifically have not talked with anyone,
8 permitted anyone to talk with you or talk about
9 this case in your presence, nor have you read
10 anything or watched any news programs. If you
11 can make that commitment, say "I do."

12 (UNANIMOUS AFFIRMATIVE RESPONSE BY JURORS)

13 THE COURT: Any member of the panel
14 that cannot make that commitment, please stand.
15 (No response).

16 Thank you very much. And we are ready
17 to continue. Solicitor, good morning, and you
18 may call your next witness.

19 SOLICITOR WILSON: Thank you, Your
20 Honor. The State calls Shareen Roper

21 (WITNESS TAKES STAND)

22 SHAREEN ROPER, being duly sworn to
23 tell the truth, the whole truth and nothing but
24 the truth, testified, as follows:

25 DIRECT EXAMINATION

1 BY SOLICITOR WILSON:

2 Q. Ms. Roper, you testified earlier in the
3 trial of this case, and I believe you mentioned
4 that you had been married to Aven Roper.

5 A. That's right.

6 Q. And you'all were together all total how
7 long?

8 A. Off and on at least eighteen years.

9 Q. You grew up here in Charleston?

10 A. Yes.

11 Q. You and Aven had children together?

12 A. Yes.

13 Q. And your children were who?

14 A. Gerard Roper and Nile Roper.

15 Q. How far apart were Gerard and Nile?

16 A. They're ten years apart.

17 Q. And Gerard was the older of the two?

18 A. Yes.

19 Q. Let's go back to when you first had Gerard
20 or in the first years of his life. Where did
21 he go to school?

22 A. Well, he went to Sacred Heart at first for
23 elementary school. Then he went over to
24 Courtney Middle School. He went to James
25 Island High and South Carolina State College.

1 Q. Let's go back a minute. You mentioned
2 that he went to Sacred Heart. And over the
3 weekend you were telling me about your getting
4 him admitted there and trying to get him in
5 early. Tell the jury about that.

6 A. Right. Gerard was only four and at Sacred
7 Heart at that time you had to be five years old
8 to be admitted to attend there. Well, I talked
9 to the officers there and told them that I
10 thought he was very smart. At age four he
11 could name the fifty states. Wow, you know?
12 How many kids do you know that can do that?
13 And the teachers said his language -- he speaks
14 very well. And you're right. So I talked with
15 them and they said, "Well, we'll try him out.
16 If he's able to keep up with the five-year-
17 olds, then we'll let him in." And he did. So
18 at age five he went to the first grade.

19 Q. I think you also told me that besides
20 being smart, he didn't necessarily like being
21 ahead of himself in school. Is that right?

22 A. Right.

23 Q. And so what did he do?

24 A. So when he got in middle school, he was
25 like at the eighth grade or something likes

1 that he made himself -- he didn't do well in
2 that grade so he could stay back. But because
3 he stayed back, he wasn't able to play ball and
4 do the things that the kids his age would do.

5 Q. Was Gerard, even after he got to be a man,
6 was he a big guy?

7 A. No, he was a small guy. At age twenty-
8 nine, Gerard probably looked like he was about
9 eighteen.

10 Q. Now, you mentioned that he went to school
11 downtown at Courtney, but at some point you and
12 Mr. Roper removed him to James Island.

13 A. Yes.

14 Q. And why did you'all do that?

15 A. Because when he was in the eighth grade it
16 was some conversation about him talking to some
17 little girl. And this guy who was in the grade
18 with him called some other guys over from Burke
19 High School and they ganged him. And the
20 school was open at the time but they did
21 nothing, they didn't contact me, they didn't
22 call me. So I felt like they did nothing at
23 the time. Gerard had to call me. So I went
24 and got his father and we went back to the
25 school. We also went to the parents' house and

1 talked to them about it. And I went back to
2 the school and I told them that I was
3 transferring him. And they told me that I had
4 to have someone who was at James Island High.
5 I didn't know anybody on James Island -- a
6 parent. I told them that his grandmother's
7 there, so he's going to be living with his
8 grandmother and going to school on James
9 Island. But eventually we moved onto James
10 Island.

11 Q. And he finished high school there?

12 A. Yes.

13 Q. After he moved to James Island did that
14 sever your concerns about going to school
15 downtown, either Burke or Courtney?

16 A. Yes, that was fine.

17 Q. You mentioned that he got started in
18 school early. When was it that he got
19 interested in music or band?

20 A. He got interested when he was like in the
21 seventh grade at Courtney Middle.

22 Q. What did he play?

23 A. He played the trumpet. He was in the band
24 at Courtney Middle.

25 Q. Did he do pretty well with that?

1 A. Very well. He was the section leader.

2 Q. What does that mean?

3 A. Like he was in charge of all the kids that
4 played the trumpet. He would direct them on
5 what to do and how to go about formations or
6 something.

7 Q. How about when he got to high school at
8 James Island? Did he keep on playing?

9 A. Same thing, yes.

10 Q. How about when he got to State?

11 A. Same thing.

12 Q. He played in the band at State?

13 A. He played in the band at State, also as
14 trumpet leader -- section leader. Sorry.

15 Q. Gerard didn't finish State.

16 A. No, he didn't.

17 Q. And he had children. Is that right?

18 A. Yes, he did.

19 Q. How old are his children now?

20 A. Shanai is three, Ty is five and Cory is
21 seven.

22 Q. Ms. Roper, I want to show you some
23 photographs you've provided to us. First of
24 all State's 344, do you recognize that photo?

25 A. Yes.

1 Q. And State's 341?

2 A. Yes.

3 Q. State's 339?

4 A. Yes.

5 Q. 342?

6 A. Yes.

7 Q. 340?

8 A. Yes.

9 Q. 345?

10 A. Yes.

11 Q. 343?

12 A. Yes.

13 Q. And then 346?

14 A. Yes.

15 Q. Are those all photographs that you and Mr.

16 Aven provided to us?

17 A. Yes.

18 Q. And do these photographs fairly and
19 accurately show Gerard at various points in his
20 life?

21 A. Yes.

22 SOLICITOR WILSON: We would like to
23 mark these. First of all, State's 344.

24 THE COURT: These are admitted
25 without objection?

1 MR. BLOOM: No objection.

2 THE COURT: Very well. State's 339
3 through 346 are admitted without objection.

4 (SO ENTERED AS STATE'S EXHIBIT 339)

5 (SO ENTERED AS STATE'S EXHIBIT 340)

6 (SO ENTERED AS STATE'S EXHIBIT 341)

7 (SO ENTERED AS STATE'S EXHIBIT 342)

8 (SO ENTERED AS STATE'S EXHIBIT 343)

9 (SO ENTERED AS STATE'S EXHIBIT 344)

10 (SO ENTERED AS STATE'S EXHIBIT 345)

11 (SO ENTERED AS STATE'S EXHIBIT 346)

12 DIRECT EXAMINATION CONTINUED

13 BY SOLICITOR WILSON:

14 Q. When was that photo taken?

15 A. That was Gerard at James Island High
16 School.

17 Q. The outfit that he has on there?

18 A. That's his band uniform.

19 Q. State's 341? Who's in that picture?

20 A. That's Gerard, his little brother and his
21 dad. That's Gerard and Nile and Aven.

22 Q. Do you remember where that was taken?

23 A. We were at Six Flags.

24 Q. Had you gone there on a family trip?

25 A. On a family trip, yes.

1 Q. Do you know about how old Gerard was in
2 that picture?

3 A. Gerard probably was about sixteen or
4 seventeen.

5 Q. And State's 339? Who's in that picture?

6 A. That's a family portrait.

7 Q. When did you have that done?

8 A. We had that done in '96, I believe it was.

9 Q. And who's in the picture?

10 A. That's me, Aven, Gerard's dad, Gerard is
11 in back and his little brother, Nile, is in
12 front.

13 Q. Where is Nile now?

14 A. Nile is in college. Well, he goes to
15 school in Myrtle Beach.

16 Q. What kind of school?

17 A. It's a technical school.

18 Q. Has he been up there for a few years?

19 A. Yes.

20 Q. State's 342? Where was that picture
21 taken?

22 A. We were in Chicago when Gerard graduated
23 from the Navy. That's me, Gerard, and his
24 dad/Aven.

25 Q. And you'all went up there for graduation?

1 A. Yes.

2 Q. State's 340. Who's in that picture?

3 A. That's Gerard's little boy, Cory. I'm in
4 the doorway and Gerard's on the opposite site.
5 Cory was about two, I believe, there.

6 Q. And where was that picture taken?

7 A. Where we live on James Island.

8 Q. On James Island. And that would have been
9 about how many years before Gerard's death?

10 A. Probably about two. Yeah -- he's seven.
11 About four years.

12 Q. So Gerard would have been 25'ish in that
13 photo?

14 A. Yes.

15 Q. And do you remember where you'all were
16 going?

17 A. Church.

18 Q. And State's 345?

19 A. That's Gerard and his two boys. That's
20 Cory and Ty. Tyler's the smallest one. I
21 don't think Tyler was one yet because they're
22 three years apart.

23 Q. And that was taken where?

24 A. Where we live, at 6 Anderson (phonetic)
25 Avenue on James Island.

1 Q. And State's 343?

2 A. That's Gerard with his youngest boy,
3 Tyler.

4 Q. Do you remember where that was taken?

5 A. Same place.

6 Q. At your house?

7 A. Yes.

8 Q. Did Gerard come over a good bit to visit
9 you'all?

10 A. Yes.

11 Q. Bring the boys?

12 A. Quite often and bring the boys. Yes, he
13 did.

14 Q. And finally State's 346, what is that a
15 picture of?

16 A. That's Gerard when our little girl was
17 born and the baby's mother.

18 Q. That was about five months before Gerard
19 died?

20 A. Yes.

21 Q. Is that the last picture you have of him?

22 A. Yes -- well, that the baby's mother has of
23 him.

24 Q. So, Shareen, the baby that was born in
25 that picture, the little girl, she was born in

1 October?

2 A. October 22.

3 Q. Before Gerard died in March?

4 A. Yes.

5 Q. Tell the jury how important the children
6 were to Gerard.

7 A. He loved his kids more than anything. I
8 can remember there was a time that he told me
9 that he if he hits the lottery what he's going
10 to do. He said, 'Mama, if I hit the lottery
11 I'll be all set.'

12 I said, 'What do you mean?'

13 He said, 'Because then I can take care of
14 my children, they'll be fine.'

15 I said, well, I can't remember -- maybe it
16 was millions of dollars that the lottery was
17 out for at that time. And I said, 'Well, what
18 are you going to give your mama?'

19 He said, 'Oooh, I'm going to give you
20 \$50,000.'

21 I said, 'You're going to get millions of
22 dollars and that's all you're going to give
23 your mama?'

24 He said, 'That's all. I've got three
25 children to take care of.' He said, 'Then you

1 have to share that \$50,000 with dad.'

2 I said, 'You mean to tell me we only get
3 \$25,000 each?' I said, 'Thank you, no charge.'

4 Q. Shareen, you've talked about Nile, and so
5 Nile would be about 20 now?

6 A. He's 22.

7 Q. Have you noticed Gerard's death having an
8 effect on him?

9 A. Yes, Nile is very quiet now. He doesn't
10 say a lot. But he always tells me that he's --
11 he says that his brother's kids are his kids,
12 he says 'I've got to raise my niece and nephews
13 now that their dad is gone.' He said, 'I'm
14 going to be like a father to his kids for him,
15 so I don't have time to have kids right now.'
16 You know, he's such a good boy, you know.

17 He don't say a whole lot, he don't express
18 his feelings. I know that he closes in and he
19 -- you know, he'll talk about how 'Rard used to
20 make his laugh. Gerard was like his friend.

21 They were very, very close and he misses
22 him a lot. I know he does because he always
23 talks about it. When he talks about the kids,
24 he talks about how they remind them of Gerard,
25 the things that they do. The oldest boy acts

1 just like him.

2 Q. Acts just like Gerard?

3 A. Yes.

4 Q. Any of them got Gerard's smile?

5 A. They all do, all three of them. They're
6 my grands, and they are the prettiest children.
7 They look just like their dad, all three of
8 them.

9 Q. In talking about Nile, do you remember
10 when Nile found out what happened?

11 A. Yes. Well, some friends were calling Nile
12 at first. They didn't know that Nile didn't
13 live here, because at the time nobody believed
14 that Mr. Dickerson actually killed my boy.

15 So when I found out, I called him and I
16 said, "Nile, you've got to come home now."

17 He said, "Mama, what happened?"

18 I said, "Niles, just come on home and I'll
19 tell you when you get here."

20 So when he got here, he said that he had a
21 feeling already. You know, I was just crying.
22 I just couldn't take it. And me and him were
23 talking and -- and he knocked a hole in my
24 wall, screaming and hollering, you know, "Why?"
25 "Why?"

1 Q. But since that time Nile has been quiet
2 about it every since?

3 A. Yes.

4 Q. You mentioned Mr. Dickerson. Did you know
5 William Dickerson?

6 A. I don't remember him. I remember him as a
7 little boy. I don't even think they were no
8 more than about in about the fifth or sixth
9 grade. I can tell you nothing about Mr.
10 Dickerson, nothing. I remember his mom. I was
11 standing outside on Spring Street ---

12 Q. Were you and his mom close friends?

13 A. No, we weren't close friends but we were
14 neighbors. And at that time I didn't know
15 Sandra lived down the street from me. I really
16 didn't.

17 Q. When you say "neighbors", you'all didn't
18 live side-by-side?

19 A. No, we didn't live side-by-side. I lived
20 in a house -- a two-story house, and she lived
21 further to the corner.

22 Q. When did you find that Sandra had been
23 your neighbor?

24 A. She was walking down the street one day.
25 And me and the boys were sitting on the stoop,

1 just sitting there. And she said, 'You know' -
2 - and I believe she had William with her but at
3 the time she didn't call him -- it was not
4 Willie D and all that. She said, I think it
5 was "Little Man." I think she called him
6 Little Man.

7 She said that, you know, because she
8 doesn't like kids to go running around and
9 liked to keep them close to the house, do I
10 mind if her son comes down there and plays with
11 Gerard sometime. And I said, 'Well, I've got
12 to talk to his dad first, but I don't think it
13 will be a problem.' But I don't ever remember
14 him ever coming to our house. If he did, I
15 wasn't there.

16 Q. So he's not someone that was in your
17 family's life?

18 A. No. He wasn't somebody that Gerard
19 brought home. No. Even after he left, no.
20 Gerard never brought him home with him to meet
21 us or to sit down to supper with us.

22 Q. And Sandra, you knew who she was but
23 you'all weren't close friends?

24 A. Right. Her brother was in my class. When
25 we lived in the other neighborhood, I would see

1 the people.

2 Q. You now know what Mr. Dickerson did to
3 your son?

4 A. Yes.

5 Q. And you haven't gone through all the
6 pictures or anything like that?

7 A. No, I didn't look at any of them.

8 Q. Can you tell the jury how this has
9 affected you? Not just that Gerard died, but
10 what the Defendant did to him?

11 A. You didn't just kill my son.

12 You killed me, too.

13 I go to support groups. I've had to go
14 see a psychiatrist. Every day of my life it's
15 the same. I feel like it happened to me.

16 When they put that stuff in the paper
17 after Gerard died, I never knew he did all that
18 stuff to Gerard. I read it in the paper.

19 And each day of my life it's like he did
20 it to me. I walk around. I have some good
21 days, and I have some bad days. But I -- I
22 can't even drive sometimes. It just comes out
23 of nowhere in my head, and I just think 'How
24 did he do this to my boy?'

25 How did you do all these things?

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1 And you're sitting there?

2 MR. BLOOM: Judge, I'm going to
3 object to this.

4 THE WITNESS: I just don't ---

5 THE COURT: Hold on a second. Ms.
6 Roper, thank you very much. Please answer the
7 questions and don't direct anything toward
8 anyone. Thank you, ma'am.

9 THE WITNESS: I just don't see it, I
10 just don't understand. You don't know how I
11 feel at times. I have to walk around and think
12 these thoughts. It stays with me all the time.
13 He was a good boy, a good boy -- (emotional,
14 crying).

15 DIRECT EXAMINATION CONTINUED

16 BY SOLICITOR WILSON:

17 Q. Ms. Roper, I know this is hard on you and
18 that's all the questions I have. Do you need a
19 minute before ---

20 MR. BLOOM: I have no questions,
21 Your Honor.

22 THE COURT: Very well. Thank you,
23 Ms. Roper. You may come down. Thank you,
24 ma'am.

25 (WITNESS STEPS DOWN)

1 THE COURT: Solicitor, you may call
2 your next witness.

3 SOLICITOR WILSON: The State calls
4 Aven Roper.

5 (WITNESS TAKES STAND)

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

9 DIRECT EXAMINATION

10 BY SOLICITOR WILSON:

11 Q. Are you all right?

12 A. This is difficult, (affirmative nod), this
13 is tough.

14 Q. I'm just going to go through some
15 background questions and you won't be up here
16 long. Okay?

17 A. Yes.

18 Q. First of all, Mr. Roper, did you know
19 William Dickerson?

20 A. No, I don't recall him. Some of the
21 others have said that ---

22 MR. BLOOM: I would object to what
23 other people have said.

24 THE COURT: Sustained.

25 DIRECT EXAMINATION CONTINUED

1 BY SOLICITOR WILSON:

2 Q. You don't know him?

3 A. I don't know him, no.

4 Q. How about the rest of his family?

5 A. I didn't know them.

6 Q. Did you know that he and your son were
7 friends?

8 A. No, I didn't.

9 Q. Did you know that he and Gerard might have
10 been involved in drugs together? Did you know
11 anything about that?

12 A. No, I didn't.

13 Q. Mr. Roper, let's go back before all of
14 this. Tell the jury about Gerard and your
15 family.

16 A. He liked to impersonate people.

17 Q. Who was best impersonating?

18 A. My great-grandmother. She died at 102.
19 Well, it was my grandmother. She died at 102.
20 He would have everybody in here laughing
21 impersonating her.

22 Q. Also he used to impersonate you. Did he
23 ever do that in front of you?

24 A. Yes, he did.

25 Q. Especially if you had a little temper

- 1 tantrum or something?
- 2 A. Yes.
- 3 Q. He used to mock you, too?
- 4 A. Well, he wouldn't do it in front of me.
- 5 Q. We heard that he was in the band and
- 6 pretty good with the trumpet. Is that right?
- 7 A. Yes, he was.
- 8 Q. So he had some musical talent. Could he
- 9 sing?
- 10 A. No, he maybe could rap or something, but
- 11 he didn't have a tune to sing.
- 12 Q. How about sports? Was he any good in
- 13 sports?
- 14 A. Well, he liked to play sports.
- 15 Q. He wasn't as big as you?
- 16 A. No, he's a lot smaller guy. But he liked
- 17 the softball, the basketball.
- 18 Q. And I believe there was some testimony
- 19 last week about he'd hurt his foot?
- 20 A. Yes.
- 21 Q. And was that playing softball?
- 22 A. Yes. That was about five months before he
- 23 was killed, he sprained his ankle sliding on a
- 24 softball field base.
- 25 Q. Did he play baseball when he was young?

1 A. Yeah, he did.

2 Q. Did you ever help with the baseball?

3 A. Yes, yes, I did.

4 Q. I think you were telling us how determined
5 he could be at anything, even in baseball.

6 A. Yes.

7 Q. Tell the jury about one story.

8 A. They were playing baseball, and he wanted
9 to be the pitcher. He walked in four balls,
10 walked in one runner, walked in another runner,
11 a third runner. Now he's walking in scorers.
12 So everybody got the advantage. He walked
13 another score in.

14 Q. What were you doing?

15 A. I took him off of the mound. But you
16 could see how determined he was. He was
17 determined to keep trying to throw the ball
18 across the plate. But he did continue to be
19 not as accurate and kept walking in the
20 players, and finally they lost the game.

21 Q. But he tried?

22 A. Yeah, he wants to try. He just felt like
23 he'd keep at it, I guess.

24 Q. And was he a big fan of sports?

25 A. He loved football, the New York Giants. I

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1 guess all of his friends probably knew that he
2 loved the Giants.

3 Q. Did he ever get to see them play in real
4 life?

5 A. Yes. My nephew, he worked with the Giants
6 organization. And he went up there and he went
7 to see them play. And he had a ball up there,
8 I heard.

9 Q. Was he excited when he got home?

10 A. Yes, he was.

11 Q. Do you remember how soon or far before
12 Gerard's death that it was that he got to go
13 see the Giants?

14 A. I think that was -- I think that was in
15 August.

16 Q. Before he died later in March?

17 A. Yes.

18 Q. We heard some testimony about your son
19 Nile, and he has not been here through the
20 trial. Is that right?

21 A. No, he hasn't been. He has tests and all
22 this week.

23 Q. And you talked to me about your concern
24 for Nile and his knowing what happened.

25 A. Yes.

1 Q. Tell the jury about that.

2 A. I don't know how Nile is going to take it.
3 He doesn't know, you know -- we have informed
4 him of what's going on but I don't think he
5 understands the impact of what he's going to
6 meet when he comes back.

7 Q. You have grandchildren?

8 A. Yes.

9 Q. Cory, Ty and Shanai.

10 A. Yes.

11 Q. What's your concern for them?

12 A. Well, I'm concerned, you know, about
13 another kid that doesn't have a mother and
14 father, you know? Because Gerard was, you
15 know, he had -- he would say do that or don't
16 do that. He was just guiding them all over the
17 place. I mean, it was a joy to see him, you
18 know, see him raising up with them.

19 Q. You used the phrase when we talked over
20 the weekend that Gerard was "determined to be a
21 father to his children."

22 A. Yes.

23 Q. What did you mean by that?

24 A. He wanted to support them and give them
25 the fatherly things. He just tried so hard to

1 provide for them. I could see the dedication
2 in his eyes when he used to talk about those
3 little kids.

4 Q. And you don't say that about everything in
5 Gerard's life.

6 A. No, no. He wanted to provide and raise
7 them. He truly did. He was all over the place
8 in finances but he did them.

9 Q. I guess what I'm saying is when you say he
10 was committed, there were things in Gerard's
11 life that frustrated you that he wasn't
12 committed about, like school, for example?

13 A. Yes.

14 Q. And he didn't finish school.

15 A. He didn't finish school.

16 Q. But you saw a difference with the way he
17 was with his children?

18 A. Yes.

19 Q. And at point after Gerard got hurt, I
20 believe, he was actually living with you. Is
21 that right?

22 A. Yes, yes.

23 Q. What all did you provide for him?

24 A. I told him he could come here and stay
25 with me for awhile.

1 Q. Did he want to be independent?

2 A. Yeah. He didn't want to be there. He
3 wanted to be on his own, he went back to work,
4 I mean running the saw doing carpentry work on
5 crutches. I didn't want him to do that, but he
6 was so determined he was going to do that and
7 they would allow him to run the saw while he
8 was on crutches. He could stand up there and
9 run the saw and they would send the
10 measurements down.

11 Q. But you would have provided for him?

12 A. Oh, absolutely. Absolutely.

13 Q. He wanted to make it on his own?

14 A. Yeah, he didn't want to be there with me.
15 He just felt like -- I guess he felt like that
16 at that age that he should be on his own.

17 Q. And after he moved out from you, those few
18 months before he died, he moved in with the
19 mother of his two sons?

20 A. Yes.

21 Q. And that's where he was living when he
22 died?

23 A. Yes, it was.

24 Q. Have you and your family decided how to
25 handle his children and what they know about

1 how Geràrd died?

2 A. I don't know. It just hasn't soaked in.
3 But I'm just trying to be a good -- I guess,
4 help to be the father he would have been to
5 them.

6 Q. And they're very young now, so they don't
7 know?

8 A. Yes. They're getting to the age where
9 they will probably want to know more about what
10 had happened.

11 Q. And besides the fact, obviously, that
12 you've lost your firstborn, how has it affected
13 you to know what happened to him?

14 A. It's affected me greatly. It affects me
15 every day around -- (emotional) -- around 3:00
16 o'clock and during this time of year that he
17 died, it's just a feeling that comes on. It
18 just -- (emotional).

19 Q. Have you gotten some medication to try to
20 help you?

21 A. Yes. Yes, I take anti-anxiety pills.

22 Q. And that's something you never had to do
23 before?

24 A. No, no.

25 SOLICITOR WILSON: That's all I have,

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1 Your Honor

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

4 THE COURT: Thank you, Mr. Roper.
5 You may step down.

6 (WITNESS EXCUSED)

7 THE COURT: Solicitor, call your
8 next witness.

9 SOLICITOR WILSON: The State calls
10 Dr. Schandl.

11 (WITNESS TAKES STAND)

12 CYNTHIA SCHANDL, M.D., being duly
13 sworn to tell the truth, the whole truth and
14 nothing but the truth, testified, as follows:

15 SOLICITOR WILSON: Beg the Court's
16 indulgence.

17 THE COURT: Take your time,
18 Solicitor.

19 SOLICITOR WILSON: Your Honor, I
20 believe Dr. Schandl has already been qualified
21 as an expert.

22 THE COURT: She has. Absolutely,
23 and Dr. Schandl will continue to be permitted
24 to render opinions in the area of pathology and
25 forensic pathology.

1 SOLICITOR WILSON: Thank you, Your
2 Honor.

3 DIRECT EXAMINATION

4 BY SOLICITOR WILSON:

5 Q. Dr. Schandl, you testified in the trial
6 last week regarding the injuries that Gerard
7 Roper suffered. I believe you also testified
8 that as part of your doing a forensic autopsy
9 photographs were taken?

10 A. That's correct.

11 Q. And did you take photographs basically
12 documenting the specific injuries that Mr.
13 Roper suffered?

14 A. Yes, there are photographs, basically
15 regional areas of the body. So, for example,
16 there may be a photograph of the face or a
17 photograph of the torso. But, yes, a number of
18 different photographs to document all the
19 injuries.

20 Q. And when you testified here last week you
21 also used a diagram to go over many of those
22 injuries. Is that right?

23 A. That's correct.

24 Q. I'm going to show you a number of
25 photographs. You saw these before the trial,

1 correct?

2 A. Yes.

3 Q. Just so we have the record clear, State's
4 153, 336, 160, 161, 162, 171, 172, 166, 173,
5 335, 181, 178, 177, 184 and 141, are these all
6 photographs that were taken at the autopsy of
7 Gerard Roper?

8 A. Yes, they are.

9 Q. And are they fair and accurate depictions
10 of the wounds that he sustained?

11 A. Yes, many of those wounds. That's
12 correct.

13 SOLICITOR WILSON: Your Honor, at
14 this time we'd offer those exhibits
15 aforementioned into evidence.

16 THE COURT: Let's go through them.
17 State's 141, 153, 161, 162, 166, 171, 172, 173,
18 177, 178, 181, 184, State's 335 and 336 are
19 admitted subject to the objection of counsel
20 that previously been argued and on the record
21 in this case and protected fully by that
22 objection.

23 COURT REPORTER: Also 170.

24 BRUCE DURANT: I believe 160.

25 COURT REPORTER: Yes, 160. Thank

1 you.

2 THE COURT: State's 160, as well.

3 And that's also subject to objections of
4 counsel as previously argued.

5 BRUCE DURANT: I believe that
6 should be 160.

7 THE COURT: It's item 160 instead of
8 160. I stand corrected. Did I check them all,
9 Solicitor?

10 SOLICITOR WILSON: Well, mine are in
11 a different order. So what I'll do is before I
12 show them, I'll just make sure for each one as
13 we go.

14 THE COURT: That's fine. You'll
15 reference it and I'll check.

16 COURT REPORTER: All marked and
17 entered as previously discussed, with the
18 exception of 141 which is now entered as
19 State's Exhibit 141.

20 (SO ENTERED AS STATE'S EXHIBIT 141)

21 THE COURT: Thank you.

22 DIRECT EXAMINATION CONTINUED

23 BY SOLICITOR WILSON:

24 Q. Dr. Schandl, if you could step down again,
25 what we're going to do is the initial

1 photograph, just to show some of those areas
2 before we give it to the jury. And then we'll
3 do the other ones on the board. If you could
4 just step down.

5 A. (Complies)

6 Q. If we could just, Dr. Schandl, if you
7 could explain these injuries. First of all,
8 were the injuries that we're going to be
9 talking about that you've already testified
10 about, were any of those injuries postmortem,
11 meaning after death?

12 A. None of them were apparently postmortem,
13 no.

14 Q. What are the things you look at to be able
15 to tell if something happened before death
16 versus after death?

17 A. Essentially, if you have injury when
18 someone is alive, you'll have bleeding into the
19 site. You may have infection into the site.
20 But you have a reaction of that tissue.

21 If you have an injury that occurs after
22 death, you have no bleeding into the site and
23 you don't have any inflammation or reaction of
24 that tissue. So we look at the tissue if
25 there's bleeding at the site, that is

1 suggestive of him being alive at the time of
2 the injury.

3 Q. Would you look at State's Exhibit 153.

4 Before we get into going into the actual
5 injuries, does the significance of the way the
6 tag, the essay number, does that have
7 significance to you?

8 A. Yes, our attempt in every photograph is to
9 place that number, whether it's this small one
10 -- there's also a larger one that you'll see in
11 other photographs - such that if you're reading
12 it, you would be reading it as if the
13 individual was standing. So depending on the
14 orientation of the number you can tell which
15 way is up and which way is down.

16 Q. This is like in the close-ups?

17 A. When you get very tight in you have no
18 orientation except by looking at that number
19 sometimes.

20 Q. On this photograph, State's 153, what is
21 the abrasion area?

22 A. I can just describe what we have. What we
23 have is a photograph of Mr. Roper at the
24 beginning of the autopsy, so we're still doing
25 the external examination. We're looking at Mr.

1 Roper's chest and part of his face. But we're
2 concentrating on his torso, his chest here.

3 And so we have an abrasion here, and one here.

4 And there are several other injuries that
5 are less well seen. There's an abrasion here
6 and a couple of others in other regions that
7 were described in the diagram last week that we
8 can see on this photograph.

9 Q. I believe you testified last week that Mr.
10 Roper was 135 pounds at the time of autopsy?

11 A. Yes, that's correct.

12 Q. And his height was ---

13 A. Five foot eight (5'8").

14 Q. State's 336. Before you go into the
15 injuries shown on State's 336, we see on Mr.
16 Roper's head that its shaved. When he arrived
17 to you was his head shaved?

18 A. No. In order to get a good look at the
19 injuries we will shave any areas that have hair
20 so that we can appropriately diagram them and
21 see if there are any patterns to the injuries
22 and better measure them, as well as identify
23 some that are less obvious and you may not be
24 able to see through the hair. So we did shave
25 Mr. Roper prior to looking at some of these

1 injuries.

2 Q. And if you could tell the jury what we're
3 seeing here in State's 336.

4 A. Concentrating again on the torso, in this
5 case the back, we see multiple areas of
6 abrasion which are areas of blunt trauma.

7 These two over here that are somewhat
8 semi-circular, here on the left side of the
9 back, did have a hemorrhage into the tissues
10 underneath when we did open under the
11 subcutaneous tissue. But beneath the skin
12 there was hemorrhage.

13 Some of the others were much more
14 superficial, without hemorrhage underneath.

15 And just in quantifying those on the back,
16 and then there are several on this shoulder
17 that we see just some of here, there are about
18 twenty-five injuries to that region.

19 Q. I'm not going to show it on the board, but
20 State's 160 if I could get you to come around
21 and tell the jury -- what does this photo show?

22 A. Here we're looking at the right side of
23 Mr. Roper. Here's the arm, the nipple, the
24 chest and the abdomen. We can see some
25 injuries to the side of the arm. These have

1 the appearance of sharp injuries, possibly done
2 by something sharp but it's still superficial.
3 And then there are abrasions to the abdomen
4 here right at the lower chest where you have
5 hemorrhage to the underlying tissue.

6 Q. What does that tell you, that there's
7 hemorrhage beneath the tissue?

8 A. Well, it tells me several things. If the
9 blunt impact was such that it caused underlying
10 bleeding then it also shows here (indicating).

11 Q. State's Exhibit 161?

12 A. This is a photograph of Mr. Roper's left
13 arm, his lower arm, forearm and part of his
14 hand. And as you can see here some of the
15 swelling -- soft tissue swelling and bruising
16 in the region of the wrist. And there was a
17 fracture to one of the bones of the wrist as
18 well on the left hand.

19 Q. State's 162.

20 A. Again, his left arm. Here we have a
21 better view of the inner upper arm and we can
22 see an abrasion, a laceration, several
23 different abrasions. The arms in total had at
24 least twenty-five injuries to them combined.

25 Q. State's 171?

1 A. This is the right hand of Mr. Roper. We
2 see some injuries to the back of the hand.
3 They are either punctures or lacerations.
4 There are fractures to his hand, both to this
5 digit here, to the index finger in this region,
6 and to the thumb and the hand here at the
7 pinkie side.

8 Q. There was a fracture there?

9 A. There was as fracture in those two areas,
10 the index finger on the right hand and the
11 hand.

12 Q. State's 172?

13 A. This is another picture of Mr. Roper's
14 left hand showing some of the injuries. This
15 may be a sharp injury or a puncture wound and
16 several abrasions to the back of the hand and
17 swelling over the entire hand. This is again
18 where the wrist was fractured, on the left,
19 that we described previously.

20 Q. Now are the wounds that we just saw on
21 State's Exhibits 171 and 172, are they
22 consistent with being defensive-type wounds?

23 A. Defensive wounds simply suggest that one
24 may have received those injuries while
25 attempting to defend himself from an attack.

1 And so they are commonly on the hands, the
2 wrists, the forearms. It is a possibility,
3 yes.

4 Q. So it's consistent with someone shielding
5 himself or holding their arms out, up?

6 A. Yes, that could have been how that were
7 sustained. Yes.

8 Q. State's 166.

9 A. Again, from looking at the number we know
10 that his feet are down this way and his foot is
11 actually right around here. Here is his calf.
12 Here is his knee. So we see several abrasion
13 injuries. We see a sharp injury here and
14 another one here. This injury did result in
15 fracture of the underlying bone of the shin,
16 the tibia bone. So that injury which appeared
17 to be due to a sharp implement, such as
18 probably a knife, did penetrate the outer layer
19 of that bone which we call the cortex.

20 Q. And that injury to the far right of the
21 screen (indicating) that would have been just
22 on the inside of the knee, kind of like in this
23 area?

24 A. Yes, that's where it would be.

25 Q. So it's not on the shin where you might

1 run into furniture or ---

2 A. No, that's correct. It's up much higher,
3 right near the knee here.

4 Q. State's 173?

5 A. Here are the fingers of the right hand.
6 Again, you see some injuries, various
7 abrasions, what we call skin avulsion where the
8 skin is just torn away. More abrasions.

9 The fingernails, we clipped those for
10 evidence. So that's an artifact of our
11 process.

12 Q. Dr. Schandl, the rest of the photos we're
13 not going to do them on the big screen, so
14 let's --unless someone can't see.

15 A. (Returns to witness stand).

16 Q. Again, you mentioned that when Mr. Roper
17 arrived to you that his head was not shaved.
18 And in State's 335, that was taken before you
19 shaved the head?

20 A. That's correct.

21 Q. State's 335, if you could explain to the
22 jury what injury is depicted in this
23 photograph.

24 A. Yes. So in this photograph we see -- this
25 is what we call an identification photo. So it

1 shows Mr. Roper's face straight on.

2 We see a number of injuries. And we start
3 here in the forehead region, there are a number
4 of lacerations. If you'll recall, a
5 "laceration" is the product of blunt force as
6 opposed to sharp force and one that slits the
7 skin.

8 So what we're seeing is approximately
9 twenty lacerations in the region of the
10 forehead and the bridge of the nose.

11 Q. Twenty separate?

12 A. Well, they appear to be separate. They
13 can be separately measured.

14 As I mentioned last time, I can't tell you
15 if there was an unusual surface to what Mr.
16 Roper was struck with that may have resulted in
17 something looking like two lacerations when it
18 was only one. And on the other hand, I
19 can't tell you, for example, that a larger
20 laceration wasn't made by more than one strike.

21
22 So that's why I'm talking in approximate
23 numbers of strikes. We have twenty injuries
24 that we can point to. And these lacerations in
25 this area, this resulted in multiple fractures

1 of the brow bone here which is part of the
2 frontal skull, which did translate what we call
3 cribriform plate fractures. That's again a
4 part of the frontal skull, at the base of the
5 skull, as well as fractures to the nasal
6 bridge. So this number of blows did result in
7 fractures of the skull and the nose.

8 In addition, there were -- just from the
9 blows there was hemorrhage to the surface of
10 the eyes which you cannot see here, but it's
11 underneath the eyelids.

12 Q. So his eyes -- I know you took photos,
13 we're not showing those photos, so they would
14 have appeared extremely bloodshot?

15 A. Yes, there were little areas of bleeding
16 into the surface of the eyes, of both of the
17 eyes, in the areas where he was struck. In
18 addition, his eyes were petechial hemorrhages
19 which are very small pinpoint hemorrhages which
20 are not indicative of trauma to the eye, but
21 are indicative of an event in the vessel, the
22 very, very small vessels that burst in the eye.

23 Also in this photograph we see an
24 additional approximately fifteen wounds in the
25 lower area of the face, including multiple

1 abrasions around the nose and on the cheeks.

2 We have lacerations to the inside of the
3 lips and several abrasions on the cheeks, as I
4 mentioned.

5 In addition, you have here that he has the
6 absence of two teeth. Those are the two upper
7 central incisors. Those are absent, and it's
8 evident that they are recently absent as there
9 is bleeding into the sockets where the teeth
10 were.

11 Q. How about swelling? Are the lips swollen?

12 A. There is a degree of soft tissue swelling
13 in multiple areas including the lips, around
14 the eyes and certain areas of the forehead.

15 Q. I believe you testified in the first phase
16 of this trial about the ingestion of blood?

17 A. That's correct.

18 Q. That could have been related to the
19 fracture of the nose. Is that right?

20 A. That's correct. As the nose and the oral
21 cavity, of the nose and mouth, are connected
22 essentially. So if you do break your nose and
23 you have blood coming into your nose, you can
24 easily get that into your mouth and swallow
25 that. So that is a reasonable explanation for

1 why he had swallowed blood.

2 Q. How about the teeth being knocked out.

3 Could that also contribute to that?

4 A. Yes, certainly. Any way that he got blood
5 into his mouth.

6 Q. And then the cribriform plate, I believe
7 you said is way inside. It's not just right
8 here.

9 A. That's correct. The cribriform plate --
10 your skull is shaped somewhat like your brain
11 is, sort of like that. So this is your frontal
12 skull, and here's your forehead. It comes
13 around like that. The cribriform plate would
14 be where my thumb is. So your face would
15 continue on like that with the cribriform plate
16 here that had fractures in it, underneath the
17 base of the skull.

18 Q. I believe you testified in the guilt phase
19 as well that these types of injuries could have
20 been or are consistent with the butts of the
21 guns that we showed you or the nunchucks that
22 we showed you?

23 A. Yes, I cannot distinguish them though.

24 Q. State's Exhibit 181.

25 A. This is a photograph after we had shaved

1 his head, of the back of his head. And I have
2 a left and right here, just for my own
3 reference. And there are again multiple
4 lacerations, those that break the skin, blunt
5 force that breaks the skin, and abrasions,
6 blunt force that is not breaking the skin.
7 Here we have an abrasion associated with a
8 laceration. Blunt forces that result from a
9 laceration often have an associated abrasion.
10 So as it's slitting the skin, it will also
11 abrade the skin around it. So that's why you
12 see an abrasion surrounding most of the
13 lacerations.

14 In addition, down here towards the neck,
15 we have two entries that appear to be sharp
16 force injuries. This one here, more to the
17 left, did penetrate through the skin, and this
18 other one was much more superficial and did
19 not.

20 Q. Are there any issues with regard to tissue
21 bridging which you talked about in these
22 photos?

23 A. Well, tissue bridging is simply a
24 description of a laceration. So any time you
25 have a laceration, you will likely have tissue

1 bridging. So we were talking about the
2 difference between sharp force and blunt force
3 last week.

4 So with sharp force injury, you would not
5 expect tissue bridging because it would be a
6 clean cut.

7 Whereas as with blunt force, you may still
8 have some tissue bridging, that defect, because
9 it's not a sharp cut. It's a blunt injury.

10 Q. Just to the left in between the left and
11 right, is that more consistent with a sharp
12 force or a blunt force?

13 A. These are all blunt force. These are all
14 lacerations with tissue bridging. So he was
15 struck with something not too sharp.

16 Q. And hard enough to split the skin?

17 A. Correct. There are no skull fractures
18 associated with this set of wounds.

19 Q. State's 178.

20 A. This is a photograph of -- again, we have
21 him shaved -- of the right side of Mr. Roper's
22 head. We see some of the same lacerations and
23 abrasions that we saw in the previous
24 photograph. We won't talk about those. Some
25 of the same lacerations and abrasions that we

1 saw on the frontal photograph. There are
2 additional abrasions here behind the ear. Here
3 is an abrasion with bruising or a contusion, we
4 call it, to the front of the ear.

5 And right here in the cartilageous or
6 the cartilage part of the ear, there is a sharp
7 injury that perforates that part of the ear.
8 So there's a defect all the way through that
9 part of the ear with something, possibly a
10 knife, something sharp. And beneath that sharp
11 injury is a second sharp injury to the skin
12 behind the ear that suggests to me that that
13 would be by a single impact with a sharp
14 weapon, such as possibly a knife.

15 Q. Certainly, this injury you're discussing
16 to the ear was not life threatening?

17 A. That's correct.

18 Q. Painful?

19 A. Potentially, yes.

20 Q. I'm somewhat unclear on that is, that dark
21 area there. That's an abrasion?

22 A. Yes, this is an abrasion. There's some
23 sort of a scrape of the skin. It is associated
24 with contusion or bleeding into the tissue. So
25 it is consistent again with a blunt force

1 injury of some type.

2 Q. State's Exhibit 177.

3 A. This is the left side of Mr. Roper's head.

4 Here we see one of the larger -- the largest
5 laceration to his head, which is over two
6 inches in size. It's a complex laceration so,
7 again, I can't tell you if that was created by
8 one blow or by potentially three or more blows.

9

10 We see some of the lacerations and
11 abrasions to the face.

12 Here is a laceration to the left temple
13 region of the head. And beneath that
14 laceration there is a skull fracture.

15 And here are some additional abrasions and
16 a laceration here behind the ear and down to
17 the neck. Now, with the neck, there were
18 additional injuries when we went ahead and did
19 the internal examination.

20 So the neck had additional blunt injuries
21 that included hemorrhages in the muscles of the
22 neck, what we would call the strap muscles of
23 the neck, as well as fracture to the thyroid
24 cartilage, which is the Adam's apple. It was
25 cracked at the middle.

1 And a fracture to the hyoid bone which
2 is a very fine bone that floats up here in the
3 neck. So possibly associated with these
4 abrasions and possibly not, there is blunt
5 trauma to the neck.

6 Q. Earlier you testified about the brow area
7 being crushed.

8 A. Yes.

9 Q. Can you tell that on this photograph?

10 A. You can tell by the change in contour of
11 Mr. Roper's face. You see a flattening here of
12 his brow ridge and a flattening of the nasal
13 bone. So these are the bones here that are
14 fractured. And you can see that softening of
15 the contour and the loss of the brow line.

16 Q. So the brow bone -- I know that's not a
17 medical term. But that bone being broken is
18 different than when you're talking about the
19 nasal area or the nose being broken?

20 A. That's correct. So that's part of the
21 base of the skull, the frontal bone of the
22 skull. And the nasal bone is one of the facial
23 bones, a separate.

24 Q. Dr. Schandl, you also mentioned that you
25 found evidence of a burn.

1 A. That's correct.

2 Q. State's Exhibit 184.

3 A. This is a photograph of Mr. Roper's
4 pelvis. This is his scrotum drawn forward, or
5 anterior, drawn up, and this is the burn that I
6 described. So it's an area of blackened skin
7 or charring to the skin. You can start to see
8 that basically the blistering has caused a
9 defect of the skin layer around the edges of
10 this burn.

11 Q. How long would it take for the blistering
12 to take place? Would that be something that
13 would happen immediately?

14 A. It begins immediately.

15 Q. How about charring?

16 A. Again, it begins immediately.

17 Q. And, finally, you testified about there
18 being some trauma to Mr. Roper's anal area and
19 rectal area. Please remind the jury what you
20 found in that examination.

21 A. Yes. There were actually lacerations to
22 the skin surrounding the anal opening, two
23 lacerations. The rectal mucosus, that's
24 actually a part of the large bowel, was intact
25 and looked okay. However, there was a

1 collection of blood surrounding the bladder and
2 rectum of about 100 millimeters, again about
3 what I could hold in my two hands. And there
4 was also hemorrhage into the prostate gland
5 itself about this size round, one centimeter,
6 about this size round area.

7 Q. And State's 141, if you could orient the
8 jury.

9 A. So his feet would be down towards the
10 floor. This is his anus here and you can see
11 the tear or laceration here and a second one
12 here. I did take a section to look under the
13 microscope from this region and did find influx
14 of inflammation. So white blood cells had
15 aggregated in that area causing an abscess or
16 an inflammatory reaction.

17 Q. So the buttocks of Mr. Roper would be to
18 either side?

19 A. That's correct.

20 Q. And the actual opening that's natural is
21 right here, this dark area?

22 A. That's correct.

23 Q. What we see above there is a tear?

24 A. That's a tear, a laceration to the skin,
25 and another here.

1 Q. Could those injuries be consistent with a
2 broom handle or the barrel of a gun?

3 A. Yes, certainly.

4 THE COURT: Solicitor, what was the
5 number on that Exhibit?

6 SOLICITOR WILSON: 141.

7 THE COURT: Thank you.

8 DIRECT EXAMINATION CONTINUED

9 BY SOLICITOR WILSON:

10 Q. Dr. Schandl, that last photograph you were
11 telling us that you took a sample of the area
12 around that tear. Is that right?

13 A. That's correct.

14 Q. And you said that white blood cells had
15 already started to go to that area?

16 A. That's correct.

17 Q. I believe your testimony in the guilt
18 phase was that it would take about how long for
19 all of that to happen?

20 A. To aggregate to the extent that I saw
21 under the microscope, at least eighteen hours,
22 up to twenty-four. It could be much longer
23 than that, but at least eighteen hours or so.

24 Q. And that again would mean -- that doesn't
25 happen after death?

1 A. No. You have to be actively pumping blood
2 around the body for those white blood cells to
3 get to the location.

4 Q. In coming up with your opinion as to the
5 cause and manner of death, did you see any one
6 particular wound that was a fatal wound?

7 A. Not that I could point to and say
8 absolutely that was a fatal wound, no.

9 Q. So how was it again that Gerard Roper
10 died? If no one wound was fatal?

11 A. The sum total of all the wounds was fatal.
12 The preponderance of wounds were to the head
13 and to the neck area and the most likely cause
14 of death is the blunt trauma to the head and
15 neck. However, it's certainly possible that
16 he lost a good deal of blood during the time,
17 and blood loss could be another way that he
18 died.

19 So it's not possible to tease those out.

20 Q. And in the photos that we've seen it has
21 been cleaned, the wounds had been cleaned. So
22 we didn't see all the blood and that sort of
23 stuff?

24 A. That's correct. Before taking the
25 photographs, we do clean them.

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1 Q. So most of the wounds were on the head and
2 neck. The other wounds that we saw, the legs,
3 to the hands, they wouldn't be fatal or perhaps
4 not even really dangerous?

5 A. The majority of the wounds were
6 superficial and would not have been fatal.
7 Some of the wounds, anything that punctures the
8 skin, there's always the possibility of
9 infection down the road. So you can't conclude
10 that they couldn't eventually become fatal, but
11 certainly not likely to be fatal.

12 Q. But painful?

13 A. Certainly.

14 Q. And all in all, over two hundred injuries?

15 A. That's correct.

16 SOLICITOR WILSON: Beg the Court's
17 indulgence.

18 THE COURT: Yes.

19 SOLICITOR WILSON: That's all I have,
20 Your Honor.

21 THE COURT: Very well. Cross-
22 examine.

23 MR. BLOOM: May we approach the
24 Bench, Your Honor?

25 THE COURT: Sure.

1 (OFF RECORD BENCH CONFERENCE)

2 MR. BLOOM: No questions, Your
3 Honor. Thank you.

4 THE COURT: Thank you. We've had a
5 sidebar concerning certain matters that have
6 been previously argued on the record. We'll
7 place them on the record as soon as we take our
8 first break. And the Defendant is protected
9 with the timeliness of that Motion.

10 Thank you very much, Dr. Schandl. You may
11 step down. Do you wish this witness to be
12 excused?

13 SOLICITOR WILSON: Yes, sir.

14 THE COURT: Any objection?

15 MR. BLOOM: No objection.

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

18 (WITNESS EXCUSED)

19 THE COURT: At this point, Ladies
20 and Gentlemen, we'll take a break. Do not
21 begin your deliberations, don't discuss the
22 case. We'll be with you probably in about ten
23 or fifteen minutes.

24 (JURY OUT @ 10:54 A.M.)

25 THE COURT: Prior to the witness,

1 Dr. Schandl, being excused, Mr. Bloom
2 approached the Bench concerning the proffer
3 that was previously made in the guilt phase.
4 He renewed his request to basically reiterate
5 that proffer and have that included as a part
6 of this proceeding. In my discussions with Mr.
7 Bloom, the questions asked in the guilt phase
8 would be those same questions that he would
9 propound to the witness at this stage. And
10 therefore we simply incorporate that by
11 reference as being a part of what the first act
12 was, and incorporate fully all testimony from
13 the first phase.

14 MR. BLOOM: That's correct, Your
15 Honor. We would simply renew our Motion
16 regarding our proffer, that we be allowed to
17 ask those questions.

18 THE COURT: Thank you. And it is
19 denied.

20 MR. BLOOM: We would make a Motion
21 for a directed verdict, Your Honor, as to the
22 aggravating circumstances.

23 THE COURT: Hold on just one second.
24 Have you rested?

25 SOLICITOR WILSON: We haven't

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1 formally, but we will.

2 THE COURT: Thank you.

3 MR. BLOOM: We would make those
4 Motions for a directed verdict as to all three
5 aggravating circumstances, the criminal sexual
6 conduct, the kidnaping, the torture in light of
7 all the evidence. We believe that a directed
8 verdict would be proper in light of the
9 evidence.

10 THE COURT: Thank you very much.

11 And since we incorporated the testimony from
12 the first stage -- obviously the torture has to
13 be determined. The State is not required to
14 prove all of them. If they prove one, it's my
15 understanding that the instruction and the law
16 is that they would be entitled for the jury to
17 consider a death sentence. Two of the --
18 having been incorporated, two of the
19 aggravating circumstances, that being criminal
20 sexual conduct in the first degree and
21 kidnaping, have been established, I believe,
22 sufficiently to defeat that Motion and
23 therefore I would deny it on that basis.
24 Anything else?

25 MR. BLOOM: Nothing on behalf of the

1 Defendant, Your Honor.

2 THE COURT: Let me explore again, if
3 I may, with the Defendant at this point
4 concerning his election to testify and to start
5 the process of talking about his right to
6 address the jury as well.

7 MR. BLOOM: If I may have a moment
8 with him.

9 THE COURT: Sure. We'll take a
10 moment and then I'll do that before we bring
11 the jury back, if that's acceptable. Thank
12 you. We'll be at ease.

13 MR. BLOOM: Thank you, Your Honor.

14 (BRIEF RECESS)

15 (DEFENDANT PRESENT)

16 THE COURT: Are we ready to
17 continue?

18 SOLICITOR WILSON: I think Mr. Bloom
19 wants to put something on the record? Did you
20 want to put that on the record about the
21 toxicology?

22 MR. BLOOM: Yes.

23 THE COURT: We did. Mr. Bloom, have
24 you had the opportunity now to discuss with Mr.
25 Dickerson his decisions in this matter?

1 MR. BLOOM: I have, Your Honor.

2 THE COURT: And he has made a
3 decision, or he's still contemplating it?

4 MR. BLOOM: A preliminary decision.

5 THE COURT: And preliminarily he's
6 indicated what, sir?

7 MR. BLOOM: He does not wish to
8 testify and further he does not wish to give a
9 last argument to the jury.

10 THE COURT: And thank you,
11 Gentlemen. You may take your seat. Thank you
12 so much for standing, I appreciate it. Mr.
13 Dickerson, you've had the opportunity to
14 discuss with your attorney -- and we discussed
15 this earlier in the first phase, but you have
16 obviously the right to testify or not testify
17 in this second phase. And you understand that.

18

19 DEFENDANT: Yes, sir.

20 THE COURT: They've explain that to
21 you and answered any questions you have?

22 DEFENDANT: Yes, sir.

23 THE COURT: At this moment you've
24 decided that you most probably will not testify
25 during this phase. Is that correct?

1 DEFENDANT: At this moment, right
2 now, but we still want to talk about it.

3 THE COURT: Absolutely. The only
4 thing that I would ask is that before you rest
5 your case, in other words before your attorney
6 says "we have no more witnesses," that we
7 excuse the jury and you and I will talk again.

8 DEFENDANT: (Affirmative nod).

9 THE COURT: But at this point your
10 decision, preliminarily, is that you don't
11 think you're going to take the stand. Is that
12 correct?

13 DEFENDANT: That's correct.

14 THE COURT: And you understand, as I
15 have explained to you that certainly the jury
16 would be instructed that they could not use
17 that against you in any fashion?

18 DEFENDANT: Yes, sir.

19 THE COURT: In fact, as you heard
20 during our individual *voir dire* of the jury, we
21 specifically asked that you are not required to
22 prove any mitigating circumstances, and that
23 they couldn't use that against you if there
24 were. And that doesn't have to come from you.
25 It more than likely comes from other people.

1 But you have a right to testify. You
2 understand that?

3 DEFENDANT: Yes, sir.

4 THE COURT: But I would instruct the
5 jury that they could not in any way use that
6 against you. Obviously, if you testified, you
7 understand that you would be subject to cross
8 examination?

9 DEFENDANT: Yes, sir.

10 THE COURT: Are you satisfied with
11 your lawyers?

12 DEFENDANT: Yes, sir.

13 THE COURT: Are you satisfied with
14 the manner in which they've advised you in
15 regard to this decision at this moment?

16 DEFENDANT: That's right.

17 THE COURT: Are you under the
18 influence of any alcohol or any medications
19 here today, sir?

20 DEFENDANT: No, sir.

21 THE COURT: Do you know of anything
22 that's affecting your decision today to make a
23 decision of this nature?

24 DEFENDANT: No, sir.

25 THE COURT: And you feel comfortable

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1 with your decision?

2 DEFENDANT: Yes, sir.

3 THE COURT: Your attorneys have also
4 talked with you and we will revisit this as
5 well, but they've also talked with you that you
6 have, as you've already exercised in the first
7 phase, you have the right to address the jury
8 again, should you choose to. You understand
9 that?

10 DEFENDANT: Yes, sir.

11 THE COURT: At this point your
12 decision, preliminarily, is that you do not
13 think you're going to do that. Is that
14 correct?

15 DEFENDANT: Yes, sir.

16 THE COURT: Again, we will revisit
17 that before resting and before we start the
18 arguments. But you understand fully that is
19 your right and your lawyers have explained that
20 to you?

21 DEFENDANT: Yes, sir.

22 THE COURT: And you have no
23 questions about that?

24 DEFENDANT: No, sir.

25 THE COURT: Very well. Thank you

1 very much, Mr. Dickerson. I appreciate it,
2 sir.

3 Let the record reflect that I have
4 examined Mr. Dickerson and I find that based
5 upon his responses, as he's already
6 demonstrated, he fully appreciates and
7 understands his right to testify and not to
8 testify. He's indicate that he's totally
9 satisfied with his attorneys and again, as I
10 stated in my observations in the first phase,
11 that has continued in this phase, that there
12 has been tremendous interaction between the
13 attorneys and Mr. Dickerson, consulting him and
14 advising him. He's been engaged in
15 conversations, obviously with them.

16 I find that he has demonstrated and
17 has stated that he fully appreciates and
18 understands his rights and has elected at this
19 point not to testify and not to speak to the
20 jury or address the jury in a final argument.
21 However, we will revisit that.

22 But I find the decision thus far one
23 that he makes freely, voluntarily, knowingly
24 and intelligently. And I thank him for his
25 candid responses.

1 Are we ready to proceed now, Mr.

2 Bloom?

3 MR. BLOOM: We are ready to proceed.

4 THE COURT: Let's bring in our jury,
5 please.

6 (JURY IN @ 11:17 A.M.)

7 THE BAILIFF: Jury is all present,
8 Your Honor.

9 THE COURT: Thank you very much, Mr.
10 Robinson (bailiff). Thank you. You may be
11 seated. Thank you, Ladies and Gentlemen.
12 We're ready to continue in this matter.

13 Solicitor, as I understand the State
14 now rests?

15 SOLICITOR WILSON: Yes, sir, Your
16 Honor, the State rests.

17 THE COURT: Very well. And we have
18 heard Motions which are proper and appropriate
19 at this point. Those have been placed on the
20 record and now preserved, notwithstanding that
21 typically we would excuse you again and I would
22 go through the Motions process and hear those.
23 But we've already done that in your absence. I
24 will not excuse you, and the Motions are
25 properly and timely made.

1 Does Mr. Dickerson wish to present any
2 testimony at this stage, Mr. Bloom?

3 MR. BLOOM: We do intend to do so.

4 THE COURT: You may proceed, sir.

5 MR. BLOOM: Thank you, Your Honor.

6 We call Joseph Ladson.

7 (WITNESS TAKES STAND)

8 JOSEPH LADSON, being duly sworn to
9 tell the truth, the whole truth and nothing but
10 the truth, testified, as follows:

11 DIRECT EXAMINATION

12 BY MR. BLOOM:

13 Q. Mr. Ladson, please tell the jury where did
14 you work, sir.

15 A. Detention Center.

16 Q. Would you spell your last name for the
17 court reporter. I'm not sure if I got that?

18 A. L-A-D-S-O-N.

19 Q. Thank you, sir. And how long have you
20 been a Detention Officer at the Charleston
21 County jail?

22 A. Twenty-three years.

23 Q. So you've seen a lot of people come
24 through?

25 A. Yes, sir.

1 Q. Have you had the opportunity to observe
2 and supervise William Dickerson while he's been
3 there?

4 A. Yes, sir, he's been at Southside the whole
5 time.

6 Q. And how would you describe him as an
7 inmate at Southside?

8 A. Pretty quiet and civil. Gave me no
9 problems.

10 Q. He never gave you any problems?

11 A. No.

12 Q. How would you characterize him with
13 reference to other people there? Was he one of
14 the better inmates? One of the best inmate?

15 A. Well, I run a tight ship and basically we
16 don't have no problems with him at all.

17 Q. I think you described him as being quiet?

18 A. Yes, sir.

19 Q. Has he always been cooperative with you?

20 A. Yes, sir.

21 Q. Followed your instructions?

22 A. Yes, sir.

23 Q. Was there a time you described him as you
24 never knew that he was in the cell?

25 A. He's so quiet, (affirmative nod).

1 Q. Can you explain what you mean by that?

2 A. Basically means how well he acted. Other
3 inmates, they'll cut up, move around but I
4 never had problems with William Dickerson.

5 Q. In fact, there were times when you were
6 making cell assignments and some of the inmates
7 were causing trouble and Mr. Williams was not.
8 Can you describe that?

9 A. We had one incident where there was a guy
10 walking around and he was -- he was basically
11 inciting people who were fighting-like. I'd
12 break it up.

13 Q. But you never had that problem out of
14 William on that occasion?

15 A. No.

16 Q. I don't know if I asked this question. If
17 I did, I apologize. Was he always respectful
18 to you?

19 A. Yes, sir.

20 Q. On a scale of one to ten, with one being a
21 really bad problem inmate and ten being the
22 best inmate, where would you place him on that
23 scale.

24 A. About seven.

25 Q. Thank you very much.

1 THE COURT: Cross examine.

2 CROSS EXAMINATION

3 BY BRUCE DURANT:

4 Q. Good afternoon -- good morning, Mr.
5 Ladson.

6 A. Good morning.

7 Q. What cell block are you in at the jail?

8 A. Southside.

9 Q. And what unit?

10 A. South E.

11 Q. How long has it been since Mr. Dickerson's
12 been in Unit South E?

13 A. Well, I it's been about -- well, I was
14 with the work camp about a year, I got
15 transferred from there, so I haven't been there
16 in over there a year.

17 Q. So it's been a year since you've been at
18 the jail?

19 A. Yes, sir.

20 Q. And do you know where he's housed at the
21 jail now?

22 A. No.

23 Q. You didn't know he was in Unit 1A?

24 A. No, sir. When I transferred, I leave
25 everything behind.

1 Q. What is Unit 1A at the jail, sir?

2 A. That's ---

3 MR. BLOOM: Judge, I'm going to
4 object.

5 THE COURT: Sustained. I'm not
6 going to allow that. Thank you.

7 BRUCE DURANT: May we be heard on
8 that?

9 THE COURT: You may, Solicitor, if
10 we can be heard after the jury's excused.
11 Thank you.

12 CROSS EXAMINATION CONTINUED

13 BY BRUCE DURANT:

14 Q. Are you aware of him giving other
15 detention officers problems at the jail?

16 A. No, sir.

17 Q. But you weren't there in December of 2008,
18 is that correct?

19 A. No, sir.

20 Q. And you weren't there in November of 2007,
21 is that correct?

22 A. That's correct.

23 Q. And the one instance you said you were
24 involved in was what?

25 A. That was when on Southside when I was back

1 in uniform.

2 Q. And what was the incident again?

3 A. Another of the inmates was rattling
4 around. He was fighting.

5 Q. He was fighting another inmate?

6 A. Yeah.

7 BRUCE DURANT: I have nothing
8 further, Your Honor.

9 THE COURT: Redirect?

10 MR. BLOOM: Nothing.

11 THE COURT: You may come down.

12 (WITNESS EXCUSED)

13 THE COURT: Call your next witness.

14 MR. BLOOM: John Hewitt.

15 THE COURT: You'all approach,
16 please.

17 (OFF RECORD BENCH CONFERENCE)

18 (WITNESS TAKES STAND)

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

22 DIRECT EXAMINATION

23 BY MR. BLOOM:

24 Q. Spell your last name for the court
25 reporter.

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1 A. H-E-W-E-T-T.

2 Q. Of course, I can tell by your uniform, but
3 please tell us where you work, sir?

4 A. I work at the Charleston County Detention
5 Center.

6 Q. And how long have you been there?

7 A. Three and a half years.

8 Q. During that time have you had an
9 opportunity to observe Mr. William Dickerson,
10 Jr.?

11 A. Yes, I have.

12 Q. And have you ever had any problems out of
13 him, sir?

14 A. No, sir, I haven't.

15 Q. How would you describe him?

16 A. A mild mannered inmate. I don't have any
17 problems out of him.

18 Q. Was he always compliant with you?

19 A. Yes.

20 Q. Followed your instructions?

21 A. Yes.

22 Q. Did whatever he was asked to do?

23 A. That's right.

24 Q. If he a calming influence around the
25 younger inmates?

1 A. Yes, sir, I have observed that.

2 Q. Can you explain that for us, please?

3 A. Yes. There have been several occasions
4 where we had a problem with an inmate who comes
5 in. I'm a tactical officer and work in the
6 housing unit. And we had inmates come in and
7 as we bring them through, he'll tell the guys,
8 'you do the right thing, man', you know.
9 That's his attitude.

10 Q. He'll tell them to do the right thing?

11 A. Uh-huh, (affirmative nod).

12 Q. Does that help you all with your duties?

13 A. Yes, sir.

14 Q. Thank you very much. Please answer any
15 questions the Solicitor may have.

16 THE COURT: Any questions?

17 CROSS EXAMINATION

18 BY SOLICITOR WILSON:

19 Q. Mr. Hewitt, you have always been
20 respectful to Mr. Dickerson?

21 A. Yes, ma'am.

22 Q. And he's always been respectful back to
23 you?

24 A. Yes, ma'am.

25 SOLICITOR WILSON: That's all I have.

1 THE COURT: Redirect.

2 MR. BLOOM: Nothing further, Your
3 Honor.

4 THE COURT: You may come down, sir.

5 MR. BLOOM: Stacy Simmons.

6 (WITNESS TAKES STAND)

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

10 DIRECT EXAMINATION

11 BY MR. BLOOM:

12 Q. Again, like Officer Hewitt before you,
13 obviously we can see where you work -- tell us
14 where you work directly.

15 A. Charleston County Detention Center, 1A.

16 Q. And how long have you been there, sir?

17 A. Since 2007.

18 Q. And during that time period have you had
19 an opportunity to observe or supervise Mr.
20 Dickerson at any time?

21 A. Yes, I have.

22 Q. Has he ever given you any problem?

23 A. No, sir.

24 Q. Has he treated you with respect?

25 A. Respect runs both ways, (affirmative nod).

1 Q. Have you seen him help other inmates, in
2 terms of giving them items that they may need
3 that they don't have?

4 A. Yeah. If another inmate is out of soap or
5 shampoo or what-ever-you, and he has some he'll
6 give it -- share with them.

7 Q. How would you generally describe William
8 in terms of either mild mannered or quiet or
9 anything like that?

10 A. Most of the time he's pretty much quiet
11 and laid back.

12 Q. Has his general behavior and adjustment
13 while he's been there been good and positive,
14 in your view?

15 A. Yes, sir.

16 MR. BLOOM: Please answer any
17 questions the Solicitor may have.

18 THE COURT: Any questions?

19 CROSS EXAMINATION

20 BY SOLICITOR WILSON:

21 Q. In your experience with Mr. Dickerson, you
22 said he was a good prisoner, mild mannered; is
23 that right?

24 A. Yes.

25 Q. So you've never seen him yelling?

1 A. No, I haven't.

2 Q. You've never seen him angry?

3 A. I have seen him upset once. Yes, I have.

4 Q. Have you ever seen him angry?

5 A. No, ma'am.

6 SOLICITOR WILSON: That's all I have,
7 Your Honor.

8 THE COURT: Redirect?

9 MR. BLOOM: None, Your Honor.

10 THE COURT: You may come down, sir.

11 (WITNESS EXCUSED)

12 MR. BLOOM: Curtis Hood.

13 (WITNESS TAKES STAND)

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

17 DIRECT EXAMINATION

18 BY MR. BLOOM:

19 Q. Again, Officer, please tell us where you
20 are employed.

21 A. Charleston County Detention Center, Unit
22 1A.

23 Q. And how many years have you been there?

24 A. About three..

25 Q. During that time you've had opportunities

1 at various periods of time to observe and
2 supervise Mr. Dickerson?

3 A. Yes.

4 Q. Can you describe him for us during those
5 periods that you supervised him?

6 A. Very calm, quiet person, no odd behavior,
7 a good inmate to have, helpful.

8 Q. Explain what you mean by a good inmate to
9 have.

10 A. We have younger inmates come in who are
11 very high-strung, very quick reactions. He
12 cools them down and talks to them, helps with
13 the younger inmates.

14 Q. That's what you also mean by helpful to
15 you and your staff when he calms the younger
16 inmates down?

17 A. Yes.

18 Q. How would you describe his general
19 temperament?

20 A. Very nice. He's just a nice guy. Never
21 causes no problems. I've got to know him over
22 the last eight months, nine months. He's a
23 pretty nice guy.

24 Q. Have you ever perceived him as a threat to
25 you or any other officers?

1 A. No. I mean, obviously with the job it
2 happens but -- I've seen some inmates that
3 were, but no.

4 Q. I may have asked this, but I want to make
5 sure. He's always been respectful of you?

6 A. Absolutely.

7 Q. And followed your instructions?

8 A. Yes, sir.

9 MR. BLOOM: Thank you, sir. Please
10 answer any questions the Solicitor may have.

11 THE COURT: Cross examine.

12 CROSS EXAMINATION

13 BY BRUCE DURANT:

14 Q. Are you aware of problems he's had with
15 others?

16 A. It's possible but none with me.

17 Q. None with you? Are aware of problems he's
18 had with other officers?

19 A. No.

20 Q. Once again, have you ever seen him angry?

21 A. No.

22 Q. Have you ever had a disagreement with him?

23 A. Absolutely.

24 Q. Have you ever seen him when he's had a
25 disagreement with someone and he's gotten

1 angry?

2 A. Like I said I've never seen him angry, so

3 ---

4 Q. Have you ever seen what he's done to
5 someone when he gets angry?

6 A. No.

7 BRUCE DURANT: I have nothing
8 further.

9 MR. BLOOM: No redirect.

10 THE COURT: You may come down, sir.

11 (WITNESS EXCUSED)

12 MR. BLOOM: David Gadeic.

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

16 DIRECT EXAMINATION

17 BY MR. BLOOM:

18 Q. Officer Gadeic, again, please tell us
19 where you work?

20 A. Charleston County Detention Center.

21 Q. And how many years have you been employed
22 there?

23 A. I started in June of 2004.

24 Q. During periods of time while you've been
25 there have you had an opportunity to observe

1 and supervise William Dickerson?

2 A. Yes, I have.

3 Q. And what kind of inmate has he been for
4 you, sir?

5 A. Well, my view of Mr. Dickerson, he has
6 always been a calm, cool, collected-type
7 person. We sat on several occasions just to
8 have a general conversation. I've never had a
9 problem with him. I'd say he's just a cool guy
10 to be around.

11 Q. When you describe him as calm and cool,
12 collected, have you observed him on occasions
13 when he helped calm younger inmates down?

14 A. Yes, I have.

15 Q. Is that helpful to you and your staff?

16 A. Of course. In our line of work, any help
17 we can get is good.

18 Q. In your view, has he adjusted and adapted
19 well to the -- of course it's a restricted
20 environment -- has he adjusted, is my simple
21 question, in terms of his behavior?

22 A. That's hard to answer, because I don't
23 know how his behavior might have been before I
24 got there. But at times that I've been around
25 him, you know, I can say he's adjusted in

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1 certain moves throughout the jail.

2 Q. Would you rate him as one of the better
3 inmates to have because of his calm, cool and
4 helpful manner?

5 A. He's a cool guy to be around. I would say
6 he's an easy person to be around.

7 Q. Has he always treated you with respect?

8 A. Of course.

9 MR. BLOOM: Thank you very much,
10 sir. Please answer any questions from the
11 Solicitor.

12 DEFENDANT: You're welcome.

13 THE COURT: Cross examine.

14 CROSS EXAMINATION

15 BY BRUCE DURANT:

16 Q. Once again, how much contact did you have
17 with him over the years?

18 A. Well, I supervised on Southside for six or
19 seven months.

20 Q. That's been a long time?

21 A. It's been a little while.

22 Q. So you haven't supervised him recently; is
23 that correct?

24 A. Not recently.

25 Q. Because he hasn't been on Southside for a

1 long time; has he?

2 A. Of course.

3 Q. So how long has it been since you have had
4 him to supervise?

5 A. I'd say roughly about two years or so.

6 Although we do go -- with me being a transport
7 officer, I do come into other areas. I have
8 been in 1A where he's now located.

9 Q. And you've had no disagreements with him.

10 A. No disagreements, *per se*, no, sir.

11 Q. And you've never seen anybody he's had
12 disagreements with?

13 A. I can't say that I have.

14 Q. And you've never seen him when he's angry?

15 A. I haven't seen him angry. Upset, yes.
16 Angry, no.

17 Q. And you haven't seen what he can do to
18 someone when he's angry?

19 A. Actually, I haven't.

20 Q. Thank you, sir.

21 MR. BLOOM: No redirect.

22 THE COURT: You may come down, sir.

23 (WITNESS EXCUSED)

24 MR. CARROLL: The defense calls Barry
25 Britt.

1 MR. BLOOM: Your Honor, if I could
2 ask that the officers who just testified be
3 excused.

4 THE COURT: Any objection?

5 SOLICITOR WILSON: No, sir.

6 THE COURT: They are free to go.

7 MR. CARROLL: Your Honor, I'm informed
8 that Mr. Britt is not here at this moment.

9 THE COURT: Okay, call your next one
10 then.

11 MR. BLOOM: Court's indulgence for
12 one moment.

13 THE COURT: Okay.

14 MR. BLOOM: James Aiken.

15 (WITNESS TAKES STAND)

16 JAMES AIKEN, being duly sworn to tell
17 the truth, the whole truth and nothing but the
18 truth, testified, as follows:

19 DIRECT EXAMINATION

20 BY MR. BLOOM:

21 Q. Mr. Aiken, what is your area of expertise?

22 A. My area of expertise is risk assessment,
23 better known as inmate classification and
24 adaptability to a confinement setting.

25 Q. What is your educational background in

1 that regard?

2 A. I have an undergraduate degree from
3 Benedict College, Columbia, South Carolina,
4 bachelor of arts degree. I hold a master's
5 degree from the University of South Carolina in
6 Columbia also.

7 Q. What is your experience in the field of
8 risk assessment and inmate adjustment?

9 A. It all has to do in the correctional
10 setting, both jails, prisons and detention
11 facilities. I started in this business in
12 1971, approximately thirty-seven years ago. I
13 was employed with the South Carolina Department
14 of Corrections at the Manning Correctional
15 Institution located in Columbia, South
16 Carolina.

17 In that capacity, starting there, I was
18 employed as a social worker or a substance
19 abuse counselor in this medium-security prison;
20 which means that it had -- maximum security,
21 sensors, there's gun towers, dogs, man barrier
22 wire, electronic accessories around the
23 perimeter but inmates could gradually move from
24 point A to point B without the maximum security
25 protocols. Medium security is when you allow

1 the movement of inmates.

2 At that particular time it was interesting
3 in that customs of these treatments were moving
4 away from the so-called treatment model towards
5 more a work model. And what I mean by that is
6 that inmates went to work. And when they
7 finished their work, then we talked in therapy
8 groups, et cetera, at night after the full day
9 had been completed.

10 Q. Let me stop you there, sir, because that
11 wouldn't apply to this case.

12 A. Certainly.

13 Q. If we can move forward then, because it
14 doesn't apply to the case, and let me ask you
15 what other experience in the field do you have
16 as a warden or in that regard?

17 A. Very well. I was in the capacity of
18 deputy warden of that particular facility.

19 I was deputy warden at the state
20 penitentiary in South Carolina.

21 I was the warden of a women's prison in
22 South Carolina.

23 I was also the warden of the state
24 penitentiary in South Carolina.

25 I was the regional deputy administrator

1 supervising fifteen facilities, ranging from
2 minimum security to super maximum security.

3 I was also appointed Corrections
4 Commissioner for the State of Indiana,
5 supervising approximately forty-six or forty-
6 seven prisons within that system, from
7 juveniles to adults, from minimum security all
8 the way through super maximum security.

9 I was also Director of Corrections in the
10 United States Virgin Islands where I had jails
11 as well as juveniles as well as adult prison
12 facilities.

13 Q. All right, sir. And you've also had
14 teaching experience where you've taught other
15 wardens and other people in the field of prison
16 adjustment?

17 A. That is correct, sir. I was in the
18 capacity of a consultant, starting back when I
19 was a warden at the state penitentiary.

20 I was approached by the United States
21 Department of Justice to provide expert
22 assistance in high-security matters throughout
23 the United States, ranging from classification
24 of inmate population, risk assessment -- which
25 I have done that in all positions that I've

1 held, as I shared with you. I have riot
2 control, managing hard-to-manage, violent
3 inmates, teaching new wardens how to warden,
4 teaching existing wardens how to be better
5 wardens, as well as teaching wardens how to be
6 wardens of super maximum security prisons.

7 Q. Let me just stop you there, if I may.
8 Lastly, in terms of your experience in this
9 field, you've served on particularly a United
10 States Commission?

11 A. Yes.

12 Q. Describe that briefly, if you would.

13 A. I was appointed by the United States
14 Congress to a commission, a Presidential
15 commission, that was appointed by the
16 leadership of the House and Senate as well as
17 the President of the United States to come up
18 with standards to eliminate prison rape within
19 county, local, regional, federal as well as
20 state facilities; and these standards will be
21 coming our very soon.

22 Q. How many times have you testified
23 approximately as an expert in the field of risk
24 assessment and inmate adjustment?

25 A. I would say at least seventy-five times or

1 more.

2 Q. What jurisdictions or states would that
3 include, just generally?

4 A. Generally speaking, on federal as well as
5 state levels: Florida, Georgia, South
6 Carolina, North Carolina, Virginia, Delaware,
7 Maryland, Connecticut, Indiana, Louisiana,
8 Texas, Alabama, Mississippi, Arizona, Oregon,
9 Indiana. I'm sure I'm leaving a few out.

10 Q. Thank you.

11 MR. BLOOM: Your Honor, at this time
12 I would move to have Mr. Aiken qualified as an
13 expert in the field of risk assessment and
14 inmate adjustment.

15 THE COURT: Do you care to examine
16 his qualifications?

17 BRUCE DURANT: No objection.

18 THE COURT: You will be permitted to
19 render opinions in those areas.

20 THE WITNESS: Thank you, Your
21 Honor.

22 MR. BLOOM: Thank you, Your Honor.

23 DIRECT EXAMINATION CONTINUED

24 BY MR. BLOOM:

25 Q. Mr. Aiken, let me start, as an expert in

1 the field of risk assessment and inmate
2 adjustment in prisons, what type of records do
3 you review?

4 A. I review confinement records, convictions,
5 as well as information gathered and shared by
6 those people that supervise the inmate.

7 Q. All right. Why are those important?

8 A. They give me a better insight as to how
9 this person has adapted to both confinement
10 settings and the management needs of that
11 person during confinement.

12 Q. Does that also include interviews or
13 statements made by detention officers or
14 correctional officers who supervise that
15 inmate?

16 A. That is correct, sir.

17 Q. And why are those important?

18 A. Those are important because it gives me an
19 insight into those people that have to manage
20 him on a day-to-day basis.

21 Q. Any other information that you may review
22 in that process, that I may have left out.

23 A. Other information is, of course, being in
24 this business for thirty-seven years and
25 classifying and evaluating inmates, as well as

1 my qualifications. I not only just read the
2 statements and read the records, I interpreted
3 based on that.

4 Q. And what records, generally, did you
5 review in this case, just generally?

6 A. I reviewed his juvenile records at the
7 reception center, SCDC records.

8 Q. What is SCDC? Just tell us what that
9 means?

10 A. Department of Corrections, South Carolina
11 State Department of Corrections.

12 Q. Go ahead.

13 A. As well as the Charleston County records
14 from the detention facility, as well as the
15 testimony that was provided for me, as well as
16 some written statements from those individuals.

17 Q. Again, generally, why is it important to
18 review those records about William Dickerson
19 individually?

20 A. It gives me the picture. It gives me
21 interpretation from an prison expert's
22 perspective as to the adaptability, as well as
23 the risk assessment/classification of the
24 inmate.

25 Q. And what general conclusions, if we can

1 start there, did you reach regarding William
2 Dickerson in particular?

3 A. Mr. Dickerson can be managed in a
4 confinement setting for the remainder of his
5 life without a risk of harm to staff, inmates
6 or the general community.

7 Q. In that regard, what specific conclusions
8 did you reach regarding his particular
9 adjustment to incarceration under a potential
10 life without parole sentence?

11 A. He has adjusted very well. He will always
12 be in a high security setting because of the
13 conviction. It won't matter how good or bad he
14 is, he will stay in a high security setting in
15 order to protect the staff, inmates as well as
16 the general community. And that he's adjusted
17 extremely well.

18 Q. What general conclusions did you reach
19 regarding William Dickerson as to whether or
20 not he would be a difficult inmate to manage?

21 A. He is not a difficult inmate to manage.
22 He can be managed and he will adapt to and has
23 adapted to confinement settings, for the
24 remainder of his life.

25 Q. What general conclusion did you reach

1 about William Dickerson as to whether or not he
2 will be a potential future risk to officers or
3 staff?

4 A. The future risk to officers and staff is
5 minimal due to the fact of his adjustment to
6 the confinement setting over the fourteen or
7 fifteen years that he has been involved in
8 confinement settings.

9 Q. And that's what I want to ask you next.
10 The incarcerations of Mr. Dickerson which
11 you've mentioned to the jury, includes the time
12 in the Department of Juvenile Justice,
13 incarceration at the Charleston County
14 Detention Center as well as prior
15 incarcerations in the South Carolina Department
16 of Corrections. So it's approximately how
17 many years of his history that you were able to
18 review?

19 A. I'm just guessing right now, approximately
20 fourteen or fifteen years.

21 Q. Is that a substantial amount of
22 information that you had for Mr. Dickerson to
23 make a proper assessment?

24 A. Assessment, yes. Extreme, yes. Because
25 oftentimes we don't have that track record.

1 Q. Let me back up. Of that approximate
2 fourteen or fifteen years, how long was he in
3 the Department of Juvenile Justice facilities,
4 as you were able to look at his records?

5 A. He was in the juvenile justice system
6 approximately forty-five days.

7 Q. And how long was he initially in the South
8 Carolina Department of Corrections on a prior
9 conviction of assault of a high and aggravated
10 nature and strong armed robbery and one case of
11 youthful offender, of approximately how long?

12 A. Approximately twelve to thirteen months or
13 one year. That's called the Youthful Offender
14 Act.

15 Q. And then there was a second incident that
16 this jury has heard a conviction of regarding
17 assault against police officers with a weapon
18 and firearms. How long was that incarceration,
19 approximately?

20 A. Approximately two years.

21 Q. And you also had his incarceration history
22 at the County Detention Center here, from the
23 time of his arrest until this trial. Is that
24 correct?

25 A. That is correct, and that's approximately

1 three years.

2 Q. Let me go to that specifically. Did you
3 review the incident report, witness statements
4 and other materials that related to alleged
5 assault on an officer this jury has heard
6 testimony about at the Detention Center on or
7 about December 7th of 2008?

8 A. Yes, sir, it was in the files provided to
9 me.

10 Q. What are your specific findings as an
11 expert in your field regarding that?

12 BRUCE DURANT: Your Honor, could
13 we take up a matter of law?

14 THE COURT: All right. I'll allow
15 you to go to your jury room. Do not begin your
16 deliberations. We'll be with you momentarily.

17 (JURY OUT @ 11:52 A.M.)

18 THE COURT: Please be seated. Yes,
19 sir?

20 BRUCE DURANT: My objection is
21 quite possibly is to its relevance, Your Honor.
22 It's possible if this witness testifies
23 concerning the examination of the records of
24 that particular incident regarding his
25 adaptability to prison life -- if he wants to

1 testify that he can adapt to prison, I think
2 that's fine and good.

3 But if he's going to put this witness
4 up there to testify as to the credibility of
5 witnesses, based upon a record that he has read
6 ---

7 THE COURT: I haven't heard the
8 questions, so I don't know what he's going to
9 testify to. I know this, obviously that allows
10 some extensive cross-examination which allows
11 you to testify by asking these questions.
12 Because while he can't ask, you can ask about,
13 'well, did you talk to witness so-and-so who
14 said such-and-such?' Because under the rules
15 of experts, you're entitled to bring out any
16 hearsay testimony. He can't, but you are.

17 BRUCE DURANT: Okay.

18 THE COURT: I don't know what he's
19 going to ask.

20 BRUCE DURANT: Okay.

21 THE COURT: I can't rule on that.

22 MR. BLOOM: Your Honor, the answer
23 would be ---

24 THE COURT: You don't have to answer
25 the question, Mr. Bloom. We have Rules that

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1 govern this. It's a double-edged -- this
2 witness is a double-edged sword. Because
3 obviously he's said he's adaptable, and that
4 opens the door to some specific questions about
5 how does this make someone adaptable. That is
6 just -- I anticipate maybe some questions along
7 those lines. I may be wrong, but I don't know.
8 That's fine. Okay, let's bring in the jury. I
9 note your objection, Solicitor.

10 BRUCE DURANT: Thank you, Your
11 Honor.

12 MR. BLOOM: Judge, I'm keeping it
13 very limited.

14 THE COURT: Just for your
15 information, I was reading some cases -- they
16 have restricted -- defined "cumulative". Be
17 careful. Because I allowed you to put up four
18 people who said the same thing. At some point
19 I'm going to draw the line. So you pick and
20 choose what your questions are.

21 MR. BLOOM: Yes, sir.

22 (JURY IN @ 11:55 A.M.)

23 THE BAILIFF: Jury is all present,
24 Your Honor.

25 THE COURT: Thank you very much.

1 Please be seated. Thank you. You may continue
2 your examination, Mr. Bloom.

3 MR. BLOOM: Thank you, Your Honor.

4 THE COURT: Yes, sir.

5 DIRECT EXAMINATION CONTINUED

6 BY MR. BLOOM:

7 Q. Mr. Aiken, what were your very specific
8 finding regarding that assault incident on
9 staff members on December 7th, 2008?

10 A. My specific finding was that it was an
11 aberration. It didn't fit the behavior pattern
12 of Mr. Dickerson in all the years he was
13 incarcerated.

14 Number two is that in reviewing the
15 documents, the door to the cell should have
16 been closed until both inmates were restrained.

17 Q. What do you mean "restrained",
18 specifically?

19 A. Handcuffed.

20 Q. In the Department of Corrections is that
21 how inmates are normally removed from a cell?

22 A. That's standard correctional practice when
23 you're going in for a shake-down.

24 Q. Let me go to one part of that. You've
25 reviewed, I think you've told us, Mr.

1 Dickerson's approximate fifteen-year history
2 where he's been in different facilities. Is
3 that correct?

4 A. That's correct, sir.

5 Q. Is there any other assault on an officer
6 in any of those fifteen-year histories, other
7 than that one isolated incident?

8 A. No.

9 Q. Any other incident of an assault on a
10 staff member in that fifteen-year history?

11 A. No.

12 Q. Why is that significant to you, as an
13 expert in this field?

14 A. Because institutional behavior is a good
15 predictor of future institutional behavior in
16 that inmate population. Especially being
17 incarcerated for this period of time would
18 demonstrate this behavior. Unfortunately, many
19 of them do it in a harmful manner.

20 Q. When you say crime standard, would you
21 explain that please?

22 A. I've had to use force situations on
23 inmates and inmates regarding staff on multiple
24 times within in a 24-hour period. And this has
25 continued week after week until we controlled

1 that behavior. And this population is better
2 known as a destructive or disruptive
3 population. And I don't see any signs of that
4 in the records that I had an opportunity to
5 review.

6 Q. And not a single, other than the one
7 incident we were told about -- again, not a
8 single other assault on correctional officers
9 or staff?

10 A. That is correct, sir.

11 Q. When you reviewed that fifteen-year
12 history, did the absence of certain types of
13 incidents also help you in forming your
14 conclusions as an expert?

15 A. Yes, it's commonly addressed as what --
16 not necessarily what's in a record, but also
17 equally what's not in the records. That is
18 correct, sir.

19 Q. And if we can go through some of the
20 things that's not in Mr. Dickerson's record.
21 Let me ask you first, have you ever seen him in
22 possession of any weapon in the fifteen-year
23 history you reviewed? Was there any incident
24 where he was ever in possession of any weapons?

25 A. No, sir.

1 Q. Have you ever seen any indication of gang
2 behavior or gang activity?

3 A. No, sir.

4 Q. Is that something that is investigated and
5 reviewed within the Department of Corrections?

6 A. Most definitely. These types of behavior
7 patterns or behaviors are things that are well
8 documented in the general record.

9 Q. Was there any evidence of any serious
10 violence?

11 A. No, sir.

12 Q. Was there any evidence of crimes, as
13 you've described?

14 A. No, sir.

15 Q. Any evidence of any charges of
16 disrespecting officers?

17 A. Not that I can recall.

18 Q. That is a charge that inmates can be
19 written up for, disrespect to an officer?

20 A. That is correct. You have to understand
21 that in a confinement setting, you are watched
22 twenty-four hours a day, seven days a week,
23 three hundred and sixty-five days a year. And
24 everything is basically documented. And you'll
25 find especially chronic or disruptive behavior

1 is well documented.

2 Q. Have you ever seen any indication in the
3 fifteen years of that incarceration history
4 that he was ever gassed?

5 A. No, sir. I didn't see any form of
6 chemical emissions to control his behavior.

7 No, sir.

8 Q. Explain that to the jury.

9 A. Beg your pardon?

10 Q. Explain that to the jury, what that means.

11 A. Chemical emissions is the use of tear gas
12 or the use of other chemicals on an individual
13 to control their behavior. It causes their
14 eyes to water, some people regurgitate. So
15 it's a use-of-force tool, one of many tools
16 that we have available to restrain and control
17 behavior.

18 Q. Have you ever seen any evidence of the use
19 of electrical shock as a use-of-force?

20 A. No, sir. I didn't see any evidence where
21 he was tasered by any officer to control bad
22 behavior. And I didn't see the employment of
23 such things as a stun belt, which is a belt
24 that's tied around the waist, and a person can
25 press a button and it will send an electrical

1 charge into the individual to control behavior.

2 I did not see that.

3 Q. Have you ever seen any evidence in that
4 fifteen-year history where a restraint chair
5 was used?

6 A. No, sir.

7 Q. Explain what that is, sir?

8 A. A restraint chair is a special tool that
9 we use to control behavior where we can take an
10 inmate out of the cell after, for example, a
11 forced cell movement, and tie that individual
12 into the restraint chair where the individually
13 cannot move. But staff can move the inmate
14 from point A to point B without any problems of
15 assault or things of that nature.

16 Q. Did you ever see any evidence in that
17 fifteen-year history that he was ever subjected
18 to a four-point restraint?

19 A. No, sir.

20 Q. And what is that?

21 A. A four-point restraint -- and some
22 agencies use this restraint where an inmate's
23 behavior has to be controlled, where there's
24 kicking and biting and scratching and things of
25 that nature -- toward staff especially. You

1 tie that individual down to a bed, usually a
2 metal bed with a small mattress on it, his
3 hands, his feet, his torso, his mouth, in order
4 to control all behaviors that would be
5 disruptive from the inmate. It's employed as a
6 tool to control behavior within prison
7 environments.

8 Q. And given, then, the number of items we've
9 just reviewed in terms of what you've not seen
10 in this fifteen-year history, what would be
11 your conclusion about his adjustment to prison
12 and correctional staff?

13 A. Obviously he could be housed and managed
14 adequately in a prison environment for his
15 custody level without causing undue risk of
16 harm to staff or inmates, as well as the
17 general public.

18 Q. And you referenced his custody level.
19 What would that be, based on the conviction in
20 this case?

21 A. He will always be in security level three
22 within the South Carolina Department of
23 Corrections. It's the highest level,
24 basically, other than -- it would be the
25 highest level for an inmate. And that inmate

1 will stay there. He will stay there because of
2 his conviction, no matter how good he is or how
3 bad he is.

4 Q. And that's based on your review of the
5 fifteen-year history of available records?

6 A. That is correct, sir.

7 Q. And, again -- well, let me just ask,
8 finally, is fifteen years, in your experience,
9 an adequate history to use, a more-than-
10 adequate, a slightly adequate? What kind of
11 level of confidence do you have, given the
12 fifteen-year history of his incarceration and
13 the lack of or absence of things you told us
14 about, in terms of lack of the other items
15 you've referenced?

16 A. Extremely adequate. And the reason why,
17 very simply, is this: You often don't have a
18 fifteen-year history of incarceration in
19 looking at behavior and having that behavior
20 documented over that period of time. That's
21 number one.

22 And as I stated before, your institutional
23 behavior is a very good predictor of that
24 future institutional behavior, and can a prison
25 system manage that behavior. And the answer is

1 obviously yes.

2 . And there is another factor that's
3 involved in those fifteen years, and that's the
4 person is getting older.

5 Q. Explain the significance of that, in your
6 view and based on your experience.

7 A. Well, I'll use myself as an example. I'm
8 not the person I was when I was seventeen years
9 old. When you are younger, you are more
10 immature. You're more impulsive. You're more
11 prone to anger. You demonstrate immature
12 behavior patterns. As you get older you tend
13 not to demonstrate those behavior patterns --
14 and I'm not a psychiatrist, but you will get
15 older. You worry more about arthritis than
16 some other things that you did not worry about
17 when you were seventeen years old. In a prison
18 system, that magnifies. That intensifies. So
19 when you start getting around thirty to thirty-
20 five years of age -- and this is based on my
21 classification in managing thousands and
22 thousands of inmates -- you drop off. That's
23 what we call a drop off. About mid-thirties
24 you begin to demonstrate more mature behavior
25 patterns.

1 You will have bumps and grinds along the
2 way, but the person begins to not only burn
3 out, they burn up, especially being in a prison
4 system where they're very compliant. They know
5 what the routine is. And you know a lot about
6 it. Does it mean that it's taken for granted?
7 No. You're in a high security setting and you
8 keep an eye on it. But the point is that
9 you're on a downward slope.

10 MR. BLOOM: Thank you very much,
11 sir. Please answer any questions from the
12 Solicitor.

13 THE WITNESS: You're quite welcome,
14 sir.

15 CROSS EXAMINATION

16 BY BRUCE DURANT:

17 Q. Good afternoon, Mr. Aiken. How are you?

18 A. Just fine, sir. How are you?

19 Q. I'm doing well. Thank you. I just have a
20 few questions that I want to ask you, and we
21 shouldn't be too long. You do this quite a
22 bit, do you not?

23 A. Yes, sir.

24 Q. And you've testified quite a bit in death
25 penalty cases?

1 A. I have, sir, yes.

2 Q. And you've testified always for the
3 defendant?

4 A. I've only been asked for the defense.

5 Q. Okay. And the fact of the matter is
6 you've never testified that anybody was not
7 adaptable to prison, have you?

8 A. Well, I have provided information to
9 attorneys and they've told me 'don't come to
10 the courthouse.'

11 Q. But you've never taken the stand and
12 testified in any of your seventy-five times
13 that somebody could not be managed in prison?

14 A. I have provided testimony in a case where
15 I told the jury that this person was at the
16 highest level of probability to cause an
17 endangerment. Yes, I have.

18 Q. But you still testified that he could be
19 managed in prison?

20 A. Yes. You can be managed in prison, even
21 though you are at what I call an unacceptable
22 level of endangerment.

23 Q. Because, quite frankly, sir, anybody could
24 be managed in prison. Isn't that the case?

25 A. Yes, sir.

1 Q. And isn't it true that Mr. Dickerson's had
2 a lot of practice being in prison?

3 A. Beg your pardon?

4 Q. Mr. Dickerson has had a lot of practice at
5 being in prison?

6 A. He has been incarcerated for an extended
7 period. That is correct, sir.

8 Q. And you are aware that he was basically
9 incarcerated from November 26 of 1993, when he
10 was arrested for an Hester Park armed robbery,
11 until he was paroled for that offense on March
12 the 30th of 1995?

13 A. I'll accept your dates on that. I don't
14 have them in front of me.

15 Q. And then he was out of jail for about --
16 it looks like thirteen months, when he got
17 arrested in the shooting incident involving the
18 police officers. Basically he was incarcerated
19 then from May the 17th of 1996 until September
20 the 1st of 2005, when he was released on
21 probation.

22 A. I accept your dates on that, sir.

23 Q. Okay. And then he was out for about six
24 months before he was arrested for murder in
25 this case. And he's been incarcerated ever

1 since. Is that correct?

2 A. Yes, sir. I will accept your dates. I
3 don't have them in front of me.

4 Q. So pretty much his entire life since he
5 was seventeen, he's been incarcerated?

6 A. In and out, (affirmative nod). Yes, sir.

7 Q. Now, of course, as part of your
8 investigation you went through the -- you said
9 you reviewed the SCDC records. Is that
10 correct?

11 A. That's correct, as provided by counsel.

12 Q. And he hasn't been a bad prisoner in terms
13 of -- I mean, you have some really bad
14 prisoners out there. Is that correct?

15 A. Yes, sir.

16 Q. And he's not what you would call a really
17 bad prisoner?

18 A. That is correct.

19 Q. At least in the past. But he hasn't been
20 a perfect prisoner?

21 A. I've never seen a perfect prisoner, sir.
22 You're exactly right.

23 Q. I was interested to note that on at least
24 four occasions, between 2001 -- March of 2001
25 and October of 2004, during his last

1 incarceration -- that he was disciplined in the
2 prison system for narcotics use.

3 A. For substance abuse. That is correct,
4 sir.

5 Q. Okay. And how is it that he was able to
6 obtain controlled substances in prison?

7 A. Well, that's the reason why I'm bald-
8 headed today, sir. Contraband control is a
9 continual situation within the prison systems.
10 I am much advised as of late that with new
11 technology the interdiction is really gaining
12 on that.

13 Q. But the fact of the matter is that stuff
14 is available in prisons, is it not?

15 A. If any individual would tell you that it's
16 never getting into their prison, they need to
17 change their vocation.

18 Q. Because it does, in fact. A lot of this
19 stuff is really small and easy to smuggle; is
20 it not?

21 A. Well, there's always a way. And there's
22 always another way to interdict it. They've
23 done a very good job as of late in interdiction
24 of contraband coming in.

25 Q. So that obviously must have been since

1 2004 because that's the last time he was in
2 prison?

3 A. I didn't say absolutely, one hundred
4 percent.

5 Q. And he also had other disciplinary
6 violations while he was in jail and a number of
7 those had to do with failing to or refusing to
8 obey orders of detention officers.

9 A. Yes, minor; on the scale of immaturity,
10 more than violation.

11 Q. And there's one other thing I want to ask
12 you about. You had indicated that the incident
13 at the jail here in December of 2008 being an
14 aberration, and the door to the cell should
15 have been shut during the shakedown. I wasn't
16 really understanding what you were talking
17 about there. Could you explain that to me?

18 A. What part do you wish for me to explain?

19 Q. You said that the guards should have shut
20 the door during the shakedown. Don't the
21 inmates have to be removed from the cell before
22 you can shake down the cell?

23 A. That's correct.

24 Q. Okay. And what if the fight broke out
25 before they had exited the cell?

1 A. The fight between who?

2 Q. Assuming that -- there's testimony that as
3 one of the inmates exited the cell and one of
4 the detention officers went in that the inmate
5 turned on him, is what it was.

6 A. Yes.

7 Q. I was just kind of curious as to how
8 shutting the door in that situation would work.

9 A. I'm going backwards more than forward,
10 sir. When you approach the cell, you order
11 inmates to back up and cuff up. Both inmates
12 are restrained before you -- as they call it,
13 "pop the lock," or open the door in the first
14 place.

15 Q. So it was the detention officer's fault?

16 A. I was asked to make an observation based
17 on thousands of transactions.

18 BRUCE DURANT: Court's indulgence,
19 please.

20 THE COURT: Certainly.

21 BRUCE DURANT: Thank you, Mr. Aiken.
22 I have nothing further.

23 THE COURT: Redirect?

24 MR. BLOOM: Very briefly.

25 REDIRECT EXAMINATION

1 BY MR. BLOOM:

2 Q. Mr. Aiken, on that last point, I just want
3 to clarify. Your answer to the Solicitor on
4 the last question was the inmates are supposed
5 to back up and cuff up?

6 A. That's correct, sir.

7 Q. Is there a hole in the metal door of the
8 cell where that's done?

9 A. Usually there is a food slot there or the
10 door can just be partially opened, which they
11 can be basically cuffed up before you open the
12 door all the way.

13 Q. I just wanted to make sure I understood
14 your answer. Next, he asked you about four
15 times when Mr. Dickerson testified positive for
16 drugs in the Department of Corrections. What
17 drug was that, if you recall, from the records?

18 A. I'm going from memory, I think I was
19 marijuana.

20 Q. Negative for cocaine?

21 A. I think so. That's correct.

22 Q. Positive for marijuana?

23 A. Yes, sir.

24 Q. Is that why cell searches are routinely
25 done at the Department of Corrections?

1 A. Continuously done, yes, sir.

2 Q. And there's no doubt -- well, let me go
3 back. I think the Solicitor asked you that Mr.
4 Dickerson, over that fifteen-year history, was
5 not a really bad prisoner. And you agreed that
6 he was actually a good inmate, could you
7 elaborate on that?

8 A. As was stated in previous testimony, he's
9 at the extreme level for compliance.
10 "Compliance" that is being told what to do, why
11 to do it, when to do it in a prison
12 environment. He has done this over fifteen
13 years and that puts him at a very favorable,
14 extreme level in the sequence or the variance
15 of inmate behavior while incarcerated.

16 Q. All right, sir. In that regard, the
17 Solicitor asked you about one of his
18 disciplinary infractions at the Department of
19 Corrections, that is refusing to obey an
20 officer? Was that where Mr. Dickerson used the
21 word "damn"?

22 A. I think so.

23 Q. And he was written up for that?

24 A. You can get written up for anything in a
25 prison setting. And, most often, everything is

1 documented; any type of behavior, even making
2 the comment "damn", that's a write-up, that's
3 disciplinary.

4 Q. And that's why, in the review of those
5 records overall, that the mere absence of
6 things such as the possession of weapons,
7 assault on the staff, assault on officers --
8 and I won't go through the whole list, but that
9 list that we went through -- is significant to
10 you; because that you don't see any of that?

11 A. That's correct, sir. And I'm not saying
12 it to be facetious but I've had inmates who
13 have that many disciplinaries in fifteen days
14 versus fifteen years, and continued that
15 behavior after fifteen days.

16 Q. Lastly, I just have a few wrap-up
17 questions. The Solicitor asked you about your
18 testimony in other cases and possible bias. In
19 your years as a warden in different facilities
20 in South Carolina, have you ever had to use
21 lethal force on an inmate?

22 A. Not in South Carolina. In Indiana, I had
23 to use lethal force. I had a hostage situation
24 and I ordered a sniper to kill an inmate, and
25 I've executed two inmates.

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

1 BRUCE DURANT: Objection.

2 THE COURT: I'll allow it.

3 MR. BLOOM: Thank you.

4 THE WITNESS: Yes, I ordered a sniper,
5 a well-trained sniper, to kill an inmate while
6 he was still holding a hostage. And I've
7 executed two inmates personally.

8 MR. BLOOM: Thank you, sir.

9 THE COURT: Recross, Mr. Durant.

10 RE CROSS EXAMINATION

11 BY BRUCE DURANT:

12 Q. Just a couple. Just out of curiosity, how
13 often do they drug test inmates? Do you know?

14 A. It's basically a random drug test. Your
15 number may come up twice or three times a year
16 or maybe more often, depending on the system.

17 Q. Depending on the funding, too, probably
18 now.

19 MR. BLOOM: Object to that, Your
20 Honor.

21 THE COURT: Overruled.

22 THE WITNESS: Not necessarily so.
23 You will find that many systems know where to
24 cut, even though those cuts may be pretty
25 rough.

1 for identification.

2 RE CROSS EXAMINATION CONTINUED

3 BY BRUCE DURANT:

4 Q. I show you State's Exhibit 347 for
5 identification. This would be what's called
6 the warden's jacket on Mr. Dickerson. Is that
7 correct?

8 A. It seems like it, yes, sir.

9 Q. I believe this is one. Does that tell
10 what institution it was at?

11 A. It just says "South Carolina Department of
12 Corrections."

13 Q. Is that it there?

14 A. Georgetown, at Ridgeland. Yes, sir.

15 Q. That was at Ridgeland. He was found
16 guilty of fighting on that occasion?

17 A. Yes, sir, fighting without a weapon; which
18 is highly significant.

19 Q. We've already been through his
20 disciplinaries where he was tested for
21 narcotics. He was found guilty of refusing to
22 work on July 2nd of '99. Could you direct your
23 attention to Page 556 of the records.

24 A. I'm sorry, sir. I thought you were just
25 stating it. I didn't know you were asking me.

1 Q. And I don't want to go any further. But
2 the fact of the matter is, as I said, he's not
3 the worst prisoner. He's not the best
4 prisoner. Is that correct?

5 A. But he's at that level of being a very
6 well-managed inmate.

7 BRUCE DURANT: I have nothing
8 further. Thank you very much for your
9 testimony.

10 THE COURT: Thank you very much, Mr.
11 Aiken. Do you wish for this witness to be
12 excused?

13 MR. BLOOM: If I could just have a
14 moment?

15 THE COURT: No, sir.

16 MR. BLOOM: Thank you, Your Honor.

17 THE COURT: Thank you very much.
18 You may step down, and do you wish him to be
19 excused?

20 MR. BLOOM: Yes, Your Honor.

21 THE COURT: Any objection?

22 BRUCE DURANT: No, sir.

23 THE COURT: You are also free to
24 leave, sir.

25 THE WITNESS: Have a good day, sir.

1 THE COURT: You also, sir.

2 (WITNESS STEPS DOWN)

3 THE COURT: Ladies and gentlemen, at
4 this point we'll take our recess for lunch.
5 It's my understanding they're expecting you at
6 about 12:30. We'll let you have lunch and
7 we'll be ready -- let's return to your jury
8 room by 1:45, and we'll resume at that time.
9 Have a good lunch. Enjoy. Thank you. Of
10 course, don't discuss the case among yourselves
11 while you have lunch.

12 (JURY OUT @ 12:25 P.M.)

13 THE COURT: Anything from the State
14 before recessing?

15 BRUCE DURANT: We may have something
16 after lunch, Your Honor. I think in one of the
17 next few witnesses they may want to introduce
18 photos of John Williams as opposed to the
19 Defendant. I would object to that.

20 THE COURT: We'll take that up at
21 that point.

22 BRUCE DURANT: We also -- and I
23 don't know if this is an issue, but I'll bring
24 it to the Court's attention. I think Mr. Britt
25 and Mr. Williams, who I know both have pending

1 charges, and I don't know if their attorneys
2 know that they are here and under subpoena. I
3 know that when they were subpoenaed in the past
4 for the hearing we had, that I had been
5 contacted by Ms. Gay, who represented John
6 Williams, who didn't want her client to
7 testify. I just didn't know if they had been
8 notified or not.

9 THE COURT: Have you notified the
10 attorneys? You need to do that during lunch.

11 MR. BLOOM: We thought we had, but
12 we'll double check.

13 THE COURT: Please do that just as a
14 common courtesy. I don't know that you have
15 to, because they have a right to do that
16 themselves. But I think it would be the safer
17 and more prudent practice.

18 BRUCE DURANT: Thank you, Your
19 Honor.

20 THE COURT: Anything from the
21 Defendant before we recess?

22 MR. BLOOM: No, sir.

23 THE COURT: Let me just say, Mr.
24 Bloom, I understand in the federal system
25 there's rebuttal and sur-rebuttal. I believe

1 we allow direct, cross, redirect and recross,
2 and that's what I sort of follow. I know that
3 some judges do it, but I hope I didn't catch
4 you by surprise in any respect.

5 MR. BLOOM: I understand.

6 THE COURT: If you believe he's
7 going beyond what you asked in redirect, simply
8 say "objection, it's beyond the scope of my
9 redirect." And that's the way I think you
10 control that.

11 MR. BLOOM: All right.

12 THE COURT: Thank you. But let me
13 also point out something. I'm not going to do
14 it, but just be aware of it, because at some
15 point I am, because this case needs to move on.
16 You asked this witness three times the same
17 question at various stages. I understand about
18 repetition, you want the jury to hear it. But
19 at some point you can't just keep asking the
20 same questions over and over again. Thank you.
21 And the questions were was he adaptable to
22 prison, which was the essence of his testimony.

23 (LUNCH RECESS)

24 (DEFENDANT PRESENT)

25 THE COURT: Are there any matters

1 now that we need to take up before we bring in
2 the jury?

3 MR. CARROLL: I believe that there
4 is, Your Honor. Prior to the break we had a
5 issue regarding some photographs. We are not
6 going to attempt to introduce any photographs,
7 so that's no longer an issue with this witness.

8 THE COURT: All right.

9 MR. CARROLL: However, the witness
10 we are about to call is currently housed in the
11 Detention Center and has pending charges. I've
12 asked the State, based on a review of his
13 criminal history, what they feel is impeachment
14 from that record. I understand it to be a
15 trafficking in cocaine conviction that is
16 appropriate for impeachment purposes.

17 THE COURT: Okay.

18 MR. CARROLL: Additionally, he is
19 being held right now awaiting trial on a number
20 of offenses. Our position would be that while
21 the State is certainly entitled to make clear
22 that he is being prosecuted by them, the nature
23 of those offenses are not relevant and would be
24 unduly prejudicial and a conflict under 404(b).

25 THE COURT: Okay. What's the

1 State's position?

2 BRUCE DURANT: Our position on that,
3 Your Honor, is primarily under 608©).

4 THE COURT: And I don't have any --
5 while I agree with you wholeheartedly with the
6 issue of prosecution, but not delving into the
7 nature of the crimes. He has pending charges
8 against him and your office is prosecuting,
9 obviously. I would agree totally with that
10 aspect of that, because I think that addresses
11 that concern.

12 BRUCE DURANT: Thank you, Your
13 Honor.

14 THE COURT: Thank you, Solicitor.

15 MR. CARROLL: Nothing further.

16 THE COURT: Very good. So we're
17 ready for our jury to come in?

18 BRUCE DURANT: We are, Your Honor.

19 MR. CARROLL: We are.

20 THE COURT: Let's bring in the jury,
21 please.

22 (JURY IN @ 2:05 P.M.)

23 THE BAILIFF: Jury is all present,
24 sir.

25 THE COURT: Thank you, Mr. Robinson

1 (bailiff). Thank you. Be seated, please. I
2 hope you had a good lunch, Ladies and
3 Gentlemen. We are ready to continue. It took
4 a little longer, and I told them they could
5 take as long as they want. That's their right.
6 So thank you very much, and I appreciate that.
7 It's not a problem.
8 We're ready to continue. You may call your
9 next witness, Mr. Carroll.

10 MR. CARROLL: Your Honor, the defense
11 calls Barry Britt.

12 (WITNESS TAKES STAND)

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

16 DIRECT EXAMINATION

17 BY MR. CARROLL:

18 Q. Good afternoon, Mr. Britt. Where are you
19 currently living?

20 A. Charleston County jail.

21 Q. Were you living in the Charleston County
22 jail in December of 2008?

23 A. Yes, sir.

24 Q. And in December of 2008, do you recall
25 being in Unit 1A?

1 A. Yes, sir.

2 Q. I believe you were in Cell 1214?

3 A. Yes, sir.

4 Q. The jury has heard some testimony about an
5 incident that occurred on December 7th, 2008.

6 You were at that time housed in that unit, that
7 cell number. Tell us what you heard and what
8 you saw, just what you yourself heard and saw.

9 A. I heard a commotion outside -- not exactly
10 outside but, like, like two cells. I was in
11 the back section and I heard a commotion in the
12 front section. I came to my door and looked
13 out and when I looked out I saw Officer
14 Huggins, Officer Walters and Officer Ashe
15 kicking by the table. Officer Huggins was
16 making a kicking motion. Officer Ashe came
17 over, dropped low to where I couldn't see him,
18 he went out of my sight. And, uh, -- that's
19 basically it.

20 Q. Okay. I am going to show you what has
21 previously been marked as Defendant's Exhibit
22 16. Take a look at this exhibit, (tendering).

23 A. (Review).

24 Q. Do you recognize this?

25 A. Yeah.

1 Q. Okay. Does this help you explain where
2 you were and what you were able to see?

3 A. Yeah.

4 MR. CARROLL: Your Honor, I move
5 Defendant's Exhibit 16 into evidence.

6 THE COURT: Any objection,
7 Solicitor?

8 BRUCE DURANT: No, sir.

9 THE COURT: Without objection, it is
10 admitted; diagram on a board.

11 (SO ENTERED AS DEFENDANT'S EXHIBIT 16)

12 DIRECT EXAMINATION CONTINUED

13 BY MR. CARROLL:

14 Q. Mr. Britt, I want you to tell the jury
15 what -- in fact, if you would, please step
16 around here.

17 A. (Complies).

18 THE COURT: How about letting him
19 use that mic. He's soft-spoken.

20 DIRECT EXAMINATION CONTINUED

21 BY MR. CARROLL:

22 Q. Stay right here by the microphone and hold
23 Defendant's Exhibit 16 up.

24 A. (Complies).

25 Q. I believe -- look at this exhibit and

1 describe for the jury the location of your
2 cell, 1214.

3 A. 1214 is right here (indicating).

4 Q. And I believe that previously we've heard
5 testimony that Mr. Dickerson ---

6 THE COURT: Position him so that the
7 jurors can see what he is pointing to, please.

8 Thank you, sir.

9 DIRECT EXAMINATION CONTINUED

10 BY MR. CARROLL:

11 Q. Show the jury exactly where your cell was?

12 A. Cell 1214, right there.

13 Q. We've heard testimony that these cells
14 have doors on them.

15 A. (Affirmative nod).

16 Q. How are you able to see?

17 A. The little window right here.

18 Q. Directly across from you, do you know the
19 inmates that were assigned to Cell 1232?

20 A. No, sir, I didn't exactly know who.

21 Q. You didn't know who was in there at the
22 time?

23 A. No, sir.

24 Q. Have you since learned that Mr. Dickerson
25 occupied that cell?

1 A. 1232?

2 Q. (Affirmative nod).

3 A. (Negative gesture), he was 1236, I think.

4 Q. I stand corrected. So he was in 1236.

5 Tell the jury what you heard that drew your
6 attention to go to the window?

7 A. It was a noise, like something going on
8 out there. I came to the window right here,
9 and I could see right here, through this window
10 was the only view that I could see -- right
11 there.

12 Q. What did you see taking place right there?

13 A. The officers -- like I say, Officer
14 Huggins was doing a kicking motion; Officer
15 Ashe run over and dropped low -- when I say
16 "drop low", because this window is -- there's a
17 wall (indicating), and he dropped like under
18 the wall like something was going on. The
19 next thing, I saw them pick up John Williams.

20 Q. Okay. While you couldn't see who was on
21 the floor when you looked out, you were able to
22 see who it was after they picked him up?

23 A. Yeah.

24 Q. What were you able to see about Mr.
25 Williams?

1 A. He was handcuffed, his jacket was pulled
2 loose, he was swollen, there was a knot on the
3 side of his head, his eye was closed. He was
4 just beat up.

5 Q. Okay. Were you able to see or hear
6 anything else in relation to whatever else was
7 going on in that cell?

8 A. (Negative gesture), just a lot of yelling.

9 Q. Okay. All right. You can have a seat.

10 A. (Resumes witness stand).

11 Q. You were currently in that detention
12 center awaiting to go to trial on charges of
13 your own?

14 A. Yes, sir.

15 Q. You're being prosecuted by the Solicitor's
16 office here in Charleston County?

17 A. Yes, sir.

18 Q. And you had, before this time, been
19 convicted of a criminal act, correct?

20 A. Yes, sir.

21 MR. CARROLL: I have nothing further.

22 THE COURT: Cross-examine,
23 Solicitor?

24 CROSS EXAMINATION

25 BY BRUCE DURANT:

1 Q. You were in 1212?

2 A. 1214.

3 Q. 1214, okay. Mr. Dickerson was in 1236, is
4 that correct?

5 A. Yes, sir.

6 Q. And you can't really see 1236 from 1214,
7 can you?

8 A. No.

9 Q. So you can't really tell what happened
10 over in 1236. You just saw what was going on
11 with Mr. Williams out here in the common area?

12 A. Yes, sir.

13 BRUCE DURANT: I have nothing
14 further, Your Honor.

15 THE COURT: Redirect?

16 MR. CARROLL: No redirect.

17 THE COURT: You may come down, Mr.

18 Britt. Thank you, sir.

19 (WITNESS STEPS DOWN)

20 THE COURT: Call your next witness.

21 MR. BLOOM: For our next witness, we
22 have to set up some equipment.

23 THE COURT: All right, Ladies and
24 Gentlemen. We will let you go to your jury
25 room for just a few moments. They need to set

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1 up some equipment. Don't discuss the case,
2 we'll be with you shortly.

3 (JURY OUT @ 2:15 P.M.)

4 THE COURT: We'll be at-ease.

5 (BRIEF RECESS)

6 (DEFENDANT PRESENT)

7 MR. BLOOM: We have a stipulation
8 that we will read them.

9 THE COURT: Has it been marked as a
10 defense exhibit?

11 COURT REPORTER: Defendant's Exhibit
12 17.

13 (SO ENTERED AS DEFENDANT'S EXHIBIT 17)

14 THE COURT: Let's bring in our jury.

15 (JURY IN @ 2:22 P.M.)

16 THE COURT: Thank you very much,
17 Ladies and Gentlemen. We are ready to
18 continue. Mr. Bloom, as I understand, before
19 you call your next witness that there is a
20 stipulation that you'd like to publish?

21 MR. CARROLL: Yes, Your Honor.

22 THE COURT: Defendant's Exhibit 17.
23 As you will recall, we had a stipulation in the
24 earlier proceeding; that is, the parties have
25 agreed upon the testimony of a witness. You

1 may consider the stipulation when you evaluate
2 the testimony and all of the evidence. You
3 consider the stipulation as evidence, for your
4 consideration.

5 MR. CARROLL: (Reading): "Attorneys
6 for the Defendant, William O. Dickerson, Jr.
7 and the State stipulate and agree, as follows:

8 One, that if Lieutenant Michael Tyson
9 were called to testify that he would stand
10 under oath the following:

11 Two, that he is an employee and
12 supervisor of the Charleston County.

13 Three, in response to a subpoena a
14 request for video from Unit 1A at the detention
15 center does not exist. On December 7th, 2008,
16 detention control officers noticed that the 1A
17 camera was not functioning at approximately
18 10:02 a.m. They were attempting to
19 troubleshoot this issue when the incident on
20 December 7th, 2008, transpired. Central
21 control was able to restore the video
22 communication at 11:45 a.m."

23 THE COURT: Thank you, sir.

24 MR. BLOOM: Your Honor, our next
25 witness is Dr. Alexander Morton.

1 (WITNESS TAKES STAND)

2 ALEXANDER MORTON, being duly sworn to
3 tell the truth, the whole truth and nothing but
4 the truth, testified, as follows:

5 DIRECT EXAMINATION

6 BY MR. BLOOM:

7 Q. Dr. Morton, you have brought your laptop
8 with some presentation on it that pertains to
9 your testimony today; is that correct?

10 A. Yes, that's correct.

11 Q. Before we do that, let's briefly go
12 through some of your qualifications. What is
13 your profession?

14 A. I am a professor at the Medical University
15 of South Carolina.

16 Q. In what fields are you a professor?

17 A. In psychopharmacology, which essentially
18 is the study of medicines that affect the human
19 mind.

20 Q. What is your educational background in
21 that field?

22 A. I received my B.S. in Pharmacy from the
23 University of North Carolina in Chapel Hill in
24 1972; my doctorate of Pharmacy from the
25 University of Tennessee in 1975; then I

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1 completed a residency at the University of
2 California in San Francisco in 1976.

3 Q. What is your area of speciality, Doctor?

4 A. Psychiatric medicines, medicines that are
5 prescribed as well as medicines that are
6 abused.

7 Q. Are you board-certified, sir?

8 A. Yes, I am.

9 Q. In what field?

10 A. In the psychiatric pharmacy practice.

11 Q. All right. Is that board certification is
12 current?

13 A. Yes, sir. I've certified and been
14 recertified once.

15 Q. What are your current duties in the
16 position that you have with the Medical
17 University?

18 A. Currently I served as a consultant there.
19 I retired from full-time work approximately
20 five years ago, worked there full-time for
21 twenty-eight years. Now I will do, say, three
22 presentations a years versus forty
23 presentations when I was full-time.

24 I consult on patients, teach various
25 classes, as well as conduct shall classes with

1 practitioners in various drug areas.

2 Q. At some point in your background, did you
3 actually work with patients in a clinical
4 setting?

5 A. Yes, I'd say almost every day in some
6 capacity that I worked with patients, either
7 with a team or individually. I did see
8 patients on my own, on a regular basis, in
9 clinical studies or as their main practitioner,
10 if medicine was the main thing that was used to
11 treat their illness.

12 Q. All right, sir. You've given numerous
13 lectures, teaching presentations, done clinical
14 treatment and worked in other areas in the
15 field of Psychopharmacology, particularly in
16 the areas of substance abuse?

17 A. Yes, sir, I have.

18 MR. BLOOM: Your Honor, at this time
19 we would ask that Dr. Morton be qualified as an
20 expert in the field of Psychopharmacology?

21 THE COURT: Do you care to examine
22 him as to his qualifications?

23 BRUCE DURANT: No, sir.

24 THE COURT: He will be permitted to
25 render opinions in that field.

1 MR. BLOOM: Thank you, Your Honor.

2 DIRECT EXAMINATION CONTINUED

3 BY MR. BLOOM:

4 Q. Dr. Morton, if you would come around to
5 your laptop. I am going to change positions so
6 that I am not standing in front of the jury. I
7 will move over here out of the way.

8 Now, if we could go to your first slide
9 briefly.

10 A. (Display), yes. The first slide is
11 basically looking at everything that I did at
12 the Medical University. It's a little washed
13 out on the screen but there is a green tint to
14 the top and that is all inpatient activity.
15 The white at the bottom is more outpatient
16 activities. So over twenty-eight years -- at
17 first I spent twenty-five percent of my time at
18 the VA psychiatric clinic; then below that I
19 might have spent somewhere between sixty to
20 seventy-five percent of my time during the same
21 period of time, working in the outpatient
22 clinics. So that was primarily outpatient
23 there.

24 Q. When you say inpatient and outpatient.
25 Inpatient means people who are being treated?

1 A. People who require inpatient care because
2 of the severity of their symptoms, generally.

3 Q. And outpatient meaning people who are
4 coming in for the day?

5 A. Coming in on a weekly basis, a monthly
6 basis type thing.

7 Q. All right, if you'll go to your next
8 slide. Again, just briefly, does this show
9 some of your experience in the field of
10 treating and working with patients who had
11 addiction disorders and other mental health
12 disorders?

13 A. I put that there just to say during a week
14 what might I do. I would work at the
15 Charleston County psychiatric unit, usually
16 looking at people that had a problem, either
17 withdrawal or side effects. They would choose
18 a patient for me to see. I would work on the
19 inpatient MUSC center on what I'd call drug
20 problems, where I'd make rounds with the
21 doctors, nurses, psychologists and distribute
22 (sic) questions and answers regarding drug
23 therapy.

24 I did also work at the McCall Hospital,
25 which was a residential private alcohol and

1 drug treatment center. I worked there for
2 approximately thirteen years.

3 I also supervised in our outpatient
4 pharmacology clinic, which I helped start with
5 another practitioner, where we'd have somewhere
6 between ten to fifteen residents. I would
7 supervise them when they would see patients.

8 Then during that period of time, say in
9 '92, half of my time was spent in the clinical
10 research section seeing patients. There, no
11 one could participate in our study if they had
12 a disorder because their chemistry is so
13 different that they are not allowed to
14 participate in a general discipline.

15 Q. Doctors, let's move back. Let's ask you
16 generally if you can explain drugs and their
17 overall affect, in the field of substance
18 abuse.

19 A. When people take drugs there are, in
20 general, three different things that I see that
21 they experience:

22 One is that they usually experience
23 fairly quick "good" effects, which are
24 temporary. It might be relieving depression or
25 relieving anxiety or making them feel good.

1 That lasts only a temporary basis.

2 So one might say, 'well, why would
3 people continue to take them if they produce
4 only "bad" effects?' A lot of times people
5 will not notice some of the severe psychiatric
6 symptoms that occur and it's hard to see that
7 sometimes you can see some of the toxic effects
8 in people who take them over a period of time.

9 Q. What are some of the effects on the brain?

10 A. Some of the effects on the brain, uh,
11 there are very few drugs that just act
12 selectively. A lot of times drugs will affect
13 people's judgment, it will affect people's
14 movement, it will affect how they perceive the
15 world and move around. It can affect vision
16 centers.

17 This (displaying image) is a cross-
18 section if you were looking at my brain. I'm
19 looking forward. These would be different
20 parts of the brain that would be affected.

21 The "reward center" is one center that
22 is very important and I was going to talk about
23 that a little bit later, because it helps me
24 understand why people continue to do what they
25 do despite horrible problems.

1 Q. All right, sir. At some point in time did
2 I ask you to review records and other material
3 regarding William Dickerson, Jr.?

4 A. Yes.

5 Q. What did you find regarding William's
6 substance abuse?

7 A. That William's substance abuse started
8 fairly early, started as early as thirteen
9 where he was -- change slides.

10 Alcohol was his first drug-of-choice,
11 starting at age thirteen and he started using
12 it pretty much on a regular basis by age
13 fourteen, drinking somewhere between three to
14 four quarts at a time. When he would party on
15 the weekends, he might drink as much as seven
16 quarts.

17 Later on he started smoking marijuana,
18 which became something on a daily basis and
19 regularly used it, just about every day.

20 Cocaine was a fairly early experience
21 where he used it intra-nasally. At fourteen,
22 he was selling cocaine at that time -- which
23 was not really unusual in his environment for
24 young boys to either move or sell or carry
25 cocaine. He had a period of time where he used

1 it regularly and then quit, mainly because of
2 cost, but then started back at around age
3 eighteen.

4 Heroin, he did -- in the history that was
5 obtained, he did snort it one time and that was
6 it. It apparently did not catch his brain's
7 attention that limited time that he used it.

8 He did use the drug Ecstasy, also known as
9 dioxymethamphetamine or MDMA, which is
10 sometimes called a "club drug". It produces a
11 physical affect on the body as well as euphoria
12 and a "feel good" effect throughout the body,
13 lasting twelve hours. That is another drug
14 that he started using later on as a young
15 adult.

16 Then later on during the crime he was
17 using those substances.

18 Q. Were you able from the documents and
19 materials used to prepare a timeline of his
20 substance use, substance abuse from
21 approximately February through March of 2006?

22 A. Yes, I put together a timeline based on
23 reports, based on documents that were available
24 from the Solicitor's office, from other people
25 that knew him and had observed him. This would

1 be a period of time -- and what it -- it starts
2 off with February 1st and then it quickly goes
3 to the 25th and then -- then it is every day
4 after that.

5 The incident was at some time during March
6 the 7th through the 8th, and both before,
7 during and after there was observation of him
8 using substances.

9 Starting off with a friend, she reports
10 that he was smoking Blunt cigarettes, which are
11 marijuana cigarettes with cocaine in them,
12 essentially smoking it in a crack form and was
13 also using Ecstasy/MDMA before that evening of
14 the 6th, before the 7th.

15 Two friends, both Antonio Nelson and Devon
16 Keeling, in the solicitor interviews reported
17 that he was using/smoking cocaine in the Blunt
18 form, along with marijuana.

19 A friend, Rashid Malik, reported that he
20 also was using cocaine and marijuana.

21 His brother, Armon Dickerson, in an
22 interview as well as -- two interviews --
23 talked about him using this Blunt cigarettes,
24 cocaine and marijuana.

25 Q. I take it that that can't be good for you,

1 good for a person's ---

2 A. No, that's not good at all. No.

3 Q. All right. From that, what other
4 information did you glean from the records
5 about his substance abuse during this time
6 period?

7 A. That overall Mr. Dickerson had a
8 tremendous change in behavior. The one word
9 that would probably describe it best would be
10 "bizarre" behavior.

11 I've taken the same timeline and looked at
12 what has been reported by the same people that
13 saw him using the drugs. Starting off with
14 Tony Nelson, he describes Mr. Dickerson as
15 "loud and argumentative", "amped up", which
16 generally means just turned up really high,
17 "acting weird", saying "he just flipped out,
18 said guys were out to get him", a very paranoid
19 state. "He seemed to be out of his mind, he
20 started flipping" -- sometimes people use the
21 term "flipping" for flipping to a different
22 behavior, unusual behavior. Again, he was out
23 of his mind, he was flipping. He thought
24 everyone was out to get him, he just flipped
25 out.

1 Devon Keeling, around the same time
2 described him as "pacing, seemed to be very
3 upset, Willie D was yelling."

4 Rashid Malik, later on, said that he was
5 "totally someone else." Rashid has apparently
6 known him since childhood and said that "he
7 wasn't himself, his mind wasn't right, he
8 wasn't the guy that I knew." He reported about
9 conversations that just repeatedly did not make
10 sense to -- to Rashid.

11 Q. When William was initially arrested, the
12 police report contained information that you
13 relied on and felt significant?

14 A. Yes. He was arrested and the police
15 report described that he was hyperactive, that
16 he kept rambling about the drug world, that he
17 rambled about a conspiracy to kill him. He was
18 convoluted, meaning kind of going all over the
19 place, as well as scattered and that he
20 couldn't really provide details of his travels.
21 When asked where he had been, he couldn't
22 specifically say how he got from one spot to
23 another. He did say that he may have to
24 "return to his jail cell to clear his head."
25 That is what Willie D said at that time.

1 Q. All right, sir. Next, what other reports
2 did you find significant?

3 A. There were two interviews with cousins on
4 the 5th. Christopher Watson, who knows him
5 quite well, described him as being "very hyper,
6 talking very fast, pounding his fist into his
7 own hand" like so (demonstrating). He said
8 that Willie had lost weight, was unshaven and
9 that his hair was not neat and this was
10 different from the way that he normally was,
11 that his behavior was erratic and different.
12 He told her that some fellows were after him
13 and were trying to kill him.

14 Another cousin, later on in the day,
15 described him as "hyper, jittery, people were
16 looking for him, he was pacing back and forth,
17 he would sit down but then jump up" and that he
18 kept peeping out the window, that he did that
19 several times.

20 One thing that I will always ask people
21 who have used cocaine is, 'Were you peeping out
22 the window?' They are like, "How did you
23 know?" Well, I only know because the majority
24 of people do peek out the window to see who is
25 out there because they are so paranoid. So

1 that's kind of a typical response, that you're
2 looking out the window thinking that somebody
3 is driving by, looking for you. She described
4 that. That he was acting "very strange", that
5 he was hallucinating, "see that, see that" and
6 that there was nothing on the screen.

7 In fact, when I looked at overall the
8 people that was shown his cell phone he'd shown
9 it to seven different people and no one was
10 able to see what he was able to see. Sometimes
11 it was blank, sometimes there was something on
12 it but no one could really make out what Mr.
13 Dickerson was seeing. So I don't know if he
14 was hallucinating or if he was just seeing what
15 he wanted to see at that time. She described
16 that.

17 Then all of a sudden he jumped out of a
18 car and ran off without saying a word, which
19 was different than his normal behavior with his
20 cousin.

21 Q. Were there other symptoms that you were
22 able to find?

23 A. When we interviewed other people in his
24 family, his aunt noticed that he was constantly
25 moving, that he didn't sit down, that he

1 appeared jittery, again stating that he wasn't
2 himself. Almost everyone had noticed that he
3 had started to lose weight, which is a symptom
4 that is quite consistent with stimulant use,
5 whether it be cocaine or methamphetamine, you
6 use appetite and you lose a tremendous amount
7 of weight.

8 "Starting to look bad", his friend
9 Dontaire Anderson said that he was starting to
10 say things that "they were trying to kill him"
11 and that he was "scared to death" of "other
12 people."

13 Q. And in your -- any other information that
14 you found of significant in Mr. Dickerson's
15 behavior in the materials that you ---

16 A. Other members of his family, his
17 grandmother, Ms. Watson, described him as
18 "talking fast, looking bad". She noticed that
19 he was different because generally he'd be very
20 clean-cut and then suddenly he started paying
21 less attention to his dressing habits?

22 A former girlfriend, Karen McIntosh, said
23 that he had really lost a lot of weight and
24 that he looked pretty stressed out.

25 His aunt described him in general as

1 mental and physical deterioration.

2 His mother, Sandra Fokes, said that he had
3 lost so much weight that she knew something
4 must have been wrong.

5 Q. And some of these symptoms were going on
6 in the week before the ---

7 A. (Affirmative nod), they were going on
8 several weeks beforehand.

9 Q. Is there any significance to that?

10 A. It is significant in that these symptoms
11 are consistent with excessive cocaine
12 consumption, it's evidence of deterioration
13 that you see in people's physical and mental
14 state when they use these drugs, this drug.

15 Q. When you put all the information together,
16 as you have been doing, what do you find ---

17 A. Well, it really is overwhelming. I
18 started to use this but it's just too much
19 information when we put every one together, but
20 I thought that I would keep it.

21 A lot of observations from everyone that
22 he is having some problems. The next slide
23 helps to look at it a little bit better in that
24 people noticed a change in behavior -- whoever
25 came across him noticed that, they noticed --

1 people that knew him noticed weight loss, they
2 noticed paranoia thinking, either that people
3 were out to get him or were spying on him or
4 were looking for him.

5 The stimulant properties of cocaine make
6 someone very hyperactive and restless. It's
7 very difficult for someone to sit down and it's
8 pretty noticeable.

9 He had symptoms that were consistent with
10 a psychotic state, seeing things that other
11 people could not see. He didn't mention any
12 auditory hallucinations, mainly visual
13 hallucinations. He appeared to a number of
14 people to be very disorganized and certainly
15 had a tremendous amount of aggressive and
16 violent behavior that was over, that was over
17 the -- just very aggressive.

18 Q. Doctor, what is one of the initial things
19 that cocaine does over a period of time?

20 A. It really catches the brain's attention.
21 I would say that because it stimulates the
22 brain that it really "tricks" the brain into
23 thinking a survival need is being met. That's
24 where -- and I'll show you more regarding the
25 reward system. So it's not the thinking part

1 of the brain, it is the survival part of the
2 brain that is saying 'I need to get cocaine.'
3 That is why you can see people behave in ways
4 that don't make sense to use, or anyone, and
5 the lengths that people will go to get cocaine
6 when they develop this addiction.

7 Q. Why do most people use cocaine?

8 A. Well, there are a number of uses (sic) why
9 people start off using, almost always
10 voluntary. If I were giving a lecture to a
11 class, I'd have sixteen specific reasons why
12 people give -- why they initially use a drug.
13 Sometimes it's because you're not supposed to.
14 Sometimes it's a rebellion?
15 Sometimes it's just to see what it's like.
16 Sometimes it's to feel different, feel better.

17 In my experience of the people that I come
18 in contact with, in the hospitals or the
19 clinics, later on they're using drugs often to
20 self-medicate themselves; either something that
21 is feeling bad inside them, and these drugs
22 relieve those symptoms fairly quickly, and then
23 -- also whatever you use, when you quit using,
24 you can predictably experience some withdrawal.
25 The withdrawal may not be horrible but you will

1 feel uncomfortable the next day.

2 Q. Can you explain to me what you mean by
3 self-medicate?

4 A. Self-medicate would be if you had
5 depression. If you took cocaine, probably
6 within seconds that depression would be gone.
7 Whereas if I prescribed Lexapro to someone, I
8 could kind of predict that is six weeks that
9 depression would be less; very slow and
10 gradual, whereas cocaine is pretty much
11 instantaneous.

12 Alcohol, fifteen minutes. So if you're
13 feeling bad, you drink alcohol, it works pretty
14 quickly, fifteen minutes.

15 Nothing really works any faster than
16 cocaine, if you smoke it.

17 Q. All right, sir. Can you explain what you
18 mean by addictive brain disease?

19 A. An addictive brain disease, I'm talking
20 about where people are really using it in an
21 involuntary fashion. Almost everyone starts
22 off using the drug voluntarily but we're
23 talking about something that people have lost
24 control of their drug use, and that's the core
25 issue between people with addictions and people

1 that don't have addiction is that people with
2 addiction do not have the ability to stop use
3 regardless of the consequences.

4 I think in terms -- this is not overly
5 scientific, but it helps me to understand what
6 happens to a segment of population that go on
7 to develop this illness, that they compulsively
8 use and almost get off on a different track.
9 It's like a switch occurs in the brain, almost
10 like a light switch or a switch on the track.
11 Once they are on this track, they will always
12 be on that track. They might be on that track
13 and not use, they might be on that track and
14 use compulsively. Once you've got addiction, I
15 find that you've always got addiction.

16 Q. All right. What are some of the things
17 that contribute to a person developing an
18 addiction to cocaine?

19 A. Again, a chronic relapsing brain disease
20 which is pretty much well described in
21 excessive -- that it is a brain disease.

22 It's more predictable in some of the other
23 chronic medical disorders we have. If you
24 compare it to high blood pressure or diabetes,
25 some of the characteristics are that we all

1 know that there are some genetic factors. It
2 doesn't explain everything but there are some
3 there.

4 We know where it affects the body. We
5 know that there are a number of different
6 factors that play into people developing these
7 disorders. That is a very predictable course.
8 People relapse. You relapse whether you're
9 using cocaine or alcohol or if you have high
10 blood pressure or if you have diabetes, people
11 have symptoms.

12 Noncompliance is -- noncompliant meaning
13 not following recommendations or not following,
14 not taking medicine or following a diet; which
15 is pretty common with most medical disorders.

16 People do have a positive response. I
17 personally find that I like working with people
18 with addictions because they get well, a lot of
19 times moreso than people with blood pressure or
20 diabetes, which pretty much stays stable.

21 People with addiction, if they follow
22 treatment, not that it is easy, but they get
23 better predictably. If they don't follow
24 treatment, they predictably get sicker; which
25 is also reassuring to me, because I know what

1 is coming next. A very predictable disease.

2 Q. Why can't a person just stop an addiction,
3 just stop using?

4 A. It looks like that should be something
5 that would happen but biologically, chemically
6 in their brain they are missing the chemicals
7 that send the message to say subconsciously,
8 unconsciously, 'you do not need to use anymore,
9 stop drinking.' Their brain is different than
10 non-addicted people's brain.

11 Q. Next slide, does that show that?

12 A. I think so, just the fact that this is a
13 biological inability to stop people when they
14 use. It seems like they should considering the
15 horrific things that go on in people's lives:
16 losing their spouse, losing their job, losing
17 money, they're losing everything in their life.
18 They're asked to stop, yet they can't.

19 Q. Does the chemistry of a person's brain
20 have anything to do with addiction?

21 A: It has a lot to do with it. There are
22 other factors but that has a lot to do with it.
23 Everyone is different.

24 There have been a tremendous numbers of
25 discoveries over the last twenty to thirty

1 years that help us understand addiction. I
2 think you can see the difference in people's
3 scans, brain images, of their brain; the
4 deficit and hyperactivity areas of the brain of
5 someone who has an addiction versus people that
6 do not have an addiction.

7 This is something hard, I think, for a lot
8 of people to accept because it still seems like
9 one should just stop. A lot of times people
10 think in terms of 'Well, I can stop, why can't
11 they stop? All they have to do is stop.'

12 It is not unlike thinking that -- years
13 ago, when we thought that the world was flat?
14 We have a tremendous number of advances now.
15 We've got ideas that do not change. If you
16 went back thirty to forty years, the idea of
17 putting a man on the moon sounded ludicrous.
18 But things change. It's hard for people to
19 accept, it's hard to accept that addiction is a
20 medical disease.

21 Q. Before we get to your findings about
22 addiction and William in particular, are there
23 any other main points that you would like to
24 make about addiction and how medical research
25 and science has advanced the understanding of

1 that?

2 A. I think looking at the reward system is
3 important. It personally took me about four
4 years to understand and believe that this was
5 an illness, compared to back in the seventies
6 maybe. Personally, it took me awhile to
7 believe it. It's always interesting that I'm
8 going to get before a class, a group of
9 professionals or a jury in fifteen or thirty
10 minutes and change their minds -- but, it's
11 something to consider.

12 Q. How does addiction work on the brain?

13 A. Addiction on the brain works on the reward
14 system. It is so powerful that people -- we
15 are looking at potentially developing a vaccine
16 for people, a cocaine vaccine. It might be
17 that before you go to school you have to have a
18 cocaine vaccine. That means, if you use it you
19 won't get high. If you don't get high, you are
20 not going to use it. You're not going to use
21 it if you don't get an effect. That's where we
22 are kind of moving.

23 Addiction and the brain, it is important
24 to understand that it is not logical and that
25 the -- that the reason for it not being logical

1 is that it affects parts of the brain where we
2 make sense of the world and make decisions.

3 Q. And, generally, just to sum up, what are
4 some of the various things that cause
5 addiction? Then we're going to move to your
6 findings about William in particular.

7 A. No one knows absolutely what causes
8 addiction and what causes some of these
9 biochemical changes. It's obviously a number
10 of factors. The biggest factor that is
11 consistent is genetically, who is in your
12 family that also has this illness? If you're a
13 male and your father is a male (sic), it
14 predictably pushes you into about a fifty to
15 fifty-five percent chance of you not being able
16 to control a substance; but that's not a
17 hundred percent, not a hundred percent.
18 Genetics are a big factor in passing on that
19 genetic, I would say, vulnerability.

20 There are other things in the environment,
21 nurturing and nature that have -- that are a
22 factor. What goes on in the first six years of
23 life, both prenatal, at birth, as well as in
24 the first six years; where you live,
25 environmentally; stressors. Two different