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STATE OF SOUTH CAROLINA
In The Supreme Court

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

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S.C. Supreme Court

THE STATE,

RESPONDENT,

V.

WILLIAM O. DICKERSON,

APPELLANT

RECORD ON APPEAL

ROBERT M. DUDEK
Chief Appellate Defender

Kathrine H. Hudgins
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589
(803) 734-1330

JEFFREY P. BLOOM
Pro-Bono
1911 Pickens Street
Columbia, SC 29201
(803) 256-7001

Attorneys for Appellant

VOLUME NINE
Pages 4001-4500

ALAN WILSON
Attorney General

JOHN W. MCINTOSH
Chief Deputy Attorney General

DONALD J. ZELENKA
Assistant Deputy Attorney General

MELODY J. BROWN
Senior Assistant Attorney General
Office of the Attorney General
PO Box 11549
Columbia, SC 29211
(803) 734-6305

SCARLETT ANNE WILSON
Solicitor, Ninth Judicial Circuit
101 Meeting St., Ste. 400
Charleston, SC 29401-2214
fax (843) 740-5858
(843) 958-1900

Attorneys for Respondent

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1 areas, things that you lose, things that were
2 good that you didn't -- that you don't have,
3 might have had at times -- or stressors, things
4 that you didn't deserve to get. It might be
5 abuse, physical beatings on a regular basis.
6 You didn't deserve that type stressor.
7 Any untreated psychiatric disorder.
8 Other drugs that might play a part.

9 These are factors that I would look at in
10 assessing someone's addiction because some of
11 the answers from this might help you design a
12 treatment program beyond medication.
13 Medications can help but I'm constantly
14 impressed that my medications that I recommend
15 are not a total answer.

16 So we look at these different factors.

17 Q. Let me ask you next, Doctor, what did you
18 find specifically regarding, if anything, about
19 William Dickerson's addiction?

20 A. When I looked at Mr. Dickerson's picture,
21 I saw that there were a number of areas, and I
22 colored those.

23 Genetically, his father is an alcoholic
24 and is a drug addict and has used compulsively
25 in the past.

1 He has a paternal uncle that has some drug
2 problems.

3 His mother does not have any diagnosable
4 things but has used marijuana, has used alcohol
5 and reportedly has used cocaine. There is
6 nothing to show that she has used compulsively
7 the way someone with an addition would.

8 But genetically he has this as a factor.

9 Developmentally, when I looked at what was
10 going on, one things that caught my attention
11 is that he was born premature. He was born
12 early, three pounds, three ounces. That caught
13 my attention. He spent two months in the
14 hospital. I am not sure exactly what it is but
15 it was a factor that I wanted to take into
16 consideration.

17 The history that his mother was physically
18 beaten when she was pregnant with William was a
19 factor. That got my attention. So it was
20 stressful while he was in the womb.

21 Environmentally, he grew up in a section
22 of town where almost eighty percent of people
23 used substances, almost a hundred percent of
24 his friends sold substances; a large number of
25 times it would be involved, to get money for

1 the support of the family.

2 Environmentally, he didn't have a lot of
3 strong role models of people doing something
4 differently than with substances. So he saw
5 this as kind of something that you would grow
6 up, aspire to do, be a successful drug
7 salesman.

8 Stressors that I noticed as far as loses:

9 His father was out of the home at a pretty
10 young age. He did not know his father. So
11 that is a loss ---

12 Q. If I could interrupt you.

13 A. Sure.

14 Q. So that the record will reveal, his father
15 was incarcerated.

16 A. (Affirmative nod), his father was
17 incarcerated.

18 Q. If you could move on, any other final
19 points on this?

20 A. Not having a father. Stressor, physical
21 assault. He did experience physical abuse,
22 psychological abuse from his mother and I noted
23 that he ran away ten times as a child, trying
24 to get away.

25 He was hospitalized twice, at age eleven,

1 with psychiatric symptoms of suicidal thinking.

2 He did not want to stay at home. He did not

3 want to be at home.

4 Q. That was when he was in about the fifth or

5 sixth grade, thereabouts?

6 A. I think it was about the fifth grade,

7 eleven years old.

8 Q. What are some of the -- if we could move

9 on from this, then, what are some of the

10 rewards cocaine -- rewards for the brain that

11 cocaine gives?

12 A. The reward pathway is in every person,

13 every animal. This reward pathway is by these

14 four things:

15 When we eat, it feels good.

16 When we drink water, there's something

17 in the brain that is released, a chemical that

18 is released in the brain and it feels good.

19 When we procreate, with sex, it is

20 generally a good -- feels good.

21 When we take care of our babies, it

22 feels good.

23 None of these four things are left to

24 chance. If they were left to chance, people

25 would die. If you did not take care of your

1 baby after it was born, it would wander off and
2 die. If you had sex every fifty or sixty
3 years, you wouldn't have a baby to take care
4 of. If you just ate on a random basis, you
5 would become emaciated, dehydrated and die. So
6 this is -- this system is in the body to reward
7 these behaviors. It's something that is in
8 every person.

9 Q. Is that something that has to do with the
10 brain, the reward system?

11 A. The reward system has been defined. Since
12 the sixties, we know that different areas of
13 where it works and how it works. Certain areas
14 of the brain will provide more reward and we
15 know that these drugs work in certain areas to
16 activate this system.

17 So this reward pathway is activated when
18 you use drugs. Essentially, when you're
19 talking about cocaine, it becomes the main
20 focus in people's lives. So when I say that it
21 takes the brain hostage, this is what I mean,
22 that people would neglect those other factors.

23 Q. So how does cocaine have an impact on the
24 brain so that a person over time will neglect
25 food, water, procreation, nurturing, the

1 natural instincts of survival?

2 A. Well, cocaine causes the release of a
3 brain chemical called dopamine. This is the
4 chemical that food and water and love and
5 taking care of your babies releases. Dopamine
6 feels good. In cocaine it is released in
7 massive quantities, in a very quick way. More
8 cocaine will produce more dopamine release than
9 you have ever experienced before.

10 Q. That happens rather quickly?

11 A. (Affirmative nod), very quickly. I mean,
12 within seconds.

13 Q. All right.

14 A. So it is working on the same system such
15 that you think survival is taking place, it
16 essentially tricks your brain. It works --
17 like I mentioned earlier, if you smoke cocaine
18 it'll work somewhere between give and eight
19 seconds. Cannabis works one to five minutes.
20 Alcohol, five to thirty minutes. So there is
21 dramatic effect.

22 So if you feel something uncomfortable and
23 bad inside of you, if you feel worthless,
24 cocaine within about five or ten seconds makes
25 you feel good about yourself, makes you feel

1 like your are someone, essentially erases your
2 mental image of misery and what you're feeling.

3 Q. If we could skip ahead a couple of slides,
4 I want you to tell us about the research and
5 what you've found in animals, laboratory
6 animals, and cocaine.

7 A. This particular quote helps me understand
8 what goes on. It says, "Animals will work more
9 avidly by pressing a bar to obtain an IV fix
10 for cocaine than any other drug."

11 So they can put a needle into an animal
12 and they can teach it to press a bar and with
13 that it'll get an injection of cocaine. That
14 animal will press that bar more frequently for
15 cocaine than for any other drug.

16 If you give an animal an unlimited access
17 situation, where that is all that they can do,
18 these animals will self-administer until they
19 start having seizures and generally they will
20 die.

21 They did not want the animals to die in
22 these studies, so they turned off the cocaine.
23 One thing that they noticed as a side effect
24 was that the animals kept pressing the bar.
25 They recorded that they kept pressing the bar

1 twelve thousand eight hundred times before they
2 finally figured out that they weren't going to
3 get any.

4 So that's like me calling someone and say,
5 'Would you like to go out?' They say "NO!"
6 All right. Am I going to call them twelve
7 thousand eight hundred seventy-nine more times?
8 Probably not. I might say, 'Well, maybe they
9 were having a bad day, I'll call them again.'
10 'Are you sure you don't want to go out?' "NO!"
11 I'm not going to keep calling them.

12 Q. What else does the research show in
13 regards to the animals behavior if, say, food
14 or one of the other rewards is available?

15 A. That even when they are starving that they
16 will work for cocaine instead of taking food.
17 So they'll use cocaine.

18 They will continue to bar press even if
19 there are receptive females in the cage.
20 Rather than having sex, the animal would rather
21 use cocaine, will seek cocaine.

22 They would even prefer an electrical
23 shock. It'll do it by electric shock to get a
24 larger dose rather than getting a smaller dose
25 than without an electric shock. They go on to

1 say that "such animal cravings take the place
2 in absence of personality disorders, any
3 stressors or any character logical
4 inadequacies." All of these monkeys respond
5 the same way.

6 What happens, I believe, is that if humans
7 had unlimited access to cocaine, they would
8 probably behave in a similar way. This author
9 in '85, Sidney Cohen, goes on to say that the
10 properties of cocaine can make obsessive users
11 of the most mature and well-integrated amongst
12 us. Indeed, addiction does not discriminate
13 against how much money or how much intelligence
14 or where you live, what you look like.

15 Q. So how does this research relate to human
16 behavior and voluntary use?

17 A. I think you have to -- I have to say that
18 if it's voluntary use, that animals would use
19 up until they die, they would avoid food,
20 starve to death, they would avoid sex, they
21 would take an electric shock. They in their
22 mind would continue to use even though they
23 don't get a response, they would continue to
24 think about it. I think that it is really an
25 involuntary type state, although they started

1 off maybe -- and a person is very similar to
2 this.

3 Q. All right. If you could skip again. You
4 mentioned dopamine and how that interacts with
5 addiction. Of course, let me just stop here
6 for a minute. Is everything that you're
7 telling us also related to the cocaine
8 addiction you concluded about William
9 Dickerson?

10 A. Yes, it helps me understand. It gives me
11 some models to understand how William would go
12 on using despite things crumbling around him,
13 despite having a number of psychiatric symptoms
14 and not being able to think clearly. Yeah.

15 Q. All right. Can you skip ahead and tell us
16 about the dopamine that you mentioned affects
17 cocaine and cocaine addiction?

18 A. Well, cocaine causes dopamine to be
19 released. Again, this is the potential brain
20 chemical that produces pleasure and reward in
21 all animals. Dopamine works in other parts of
22 the brain also, and this is where outside of
23 the reward system you start seeing certain side
24 effects. There are lots of different areas of
25 the brain that respond to this chemical. So

1 that's why you'll see in animals hyperactivity,
2 abnormal behavior in human, hallucinations,
3 delusions, aggression, a loss of impulse
4 control, a loss of ability to control what you
5 know is not right.

6 Q. That's some of the same symptoms and
7 behaviors that you told us about that you
8 pieced together that reflected the behavior of
9 William Dickerson that you told us about in the
10 timeframe that you told us about?

11 A. Very similar, yes.

12 Q. All right. What other side effects or ---

13 A. I think I -- I mentioned this earlier,
14 that you get good effects. Then they are
15 fairly quickly replaced by negative effects and
16 these are some of the effects that you see.
17 Almost every one of these was present in
18 William:

19 That he was agitated and restless,
20 which evolves from too much of a chemical
21 called epinephrine.

22 He appeared paranoid, too much dopamine.

23 Seeing things, too much dopamine.

24 Unusual thinking, too much dopamine.

25 Violence and homicidal behavior, too much

1 of all four of these.

2 Q. These are some of the things that are
3 commonly seen in psychiatric patients. Did you
4 see those in William?

5 A. I did see these. I wrote this article
6 about -- I guess it's been ten years now, that
7 if you looked at patients using cocaine that
8 almost all of them are agitated. That if you
9 had to come up with a number, seventy-five
10 percent of people are paranoid; about fifty
11 percent are seeing things; a little less have
12 delusions; violence is very, very common --
13 anywhere from fifty to eighty percent.

14 If you look at people that have died from
15 homicides in certain places where they've done
16 studies, if you look in New York people that
17 die from homicides, thirty percent of them have
18 cocaine in their blood. If you look in L.A.,
19 it's a little bit higher. If you look at
20 people that just die, twenty-seven percent of
21 them have cocaine or metabolites in their
22 blood. So cocaine is associated with violence
23 and death. It's just two factors that occur.

24 Q. All right. And what happens after that?
25 When a persons starts to withdraw from cocaine?

1 A. Well, when you start withdrawing the
2 experience is a "crash". Typically if you have
3 cocaine, you'll use it and you'll feel better
4 fairly quickly. Without it, you start feeling
5 tired, restless, not being able to sleep or you
6 excessively sleep, there is more anxiety, the
7 paranoia continues -- paranoia can continue up
8 to weeks after you've stopped using cocaine.
9 That is partly from withdrawal as well as partly
10 from some of the changes that occur in the
11 brain.

12 Q. All right. If you can go ahead, I think,
13 two slides and tell us how a dysfunctional
14 brain looks.

15 A. This?

16 Q. Yes, sir.

17 A. When someone has used a tremendous amount
18 of cocaine on a regular basis, when they have
19 an unlimited amount, if they are dealing and
20 such they will usually have large amounts and
21 quantity is not an issue, what you will see in
22 someone is that people will be violent, they
23 will be compulsive, irritable, extremely
24 irritable, aggressive, they will be anxious,
25 they will be mis-perceiving things in the

1 worlds. They will be restless, paranoid,
2 seeing/hearing maybe things that aren't there.
3 As far as thinking logically, that's just not
4 present. You'll see the withdrawal whenever
5 you stop. It may not be severe -- people are
6 not going to die from cocaine withdrawal,
7 except that they will have a tendency to use
8 more cocaine.

9 Q. And how does this relate to what you found
10 about William in this case, what conclusions
11 did you draw?

12 A. Well, from what I heard from everyone, he
13 just about had all of the symptoms of cocaine
14 intoxication, toxic psychotic behavior,
15 excessive dopamine affecting almost every
16 system, and he had major changes in just about
17 every area of his brain.

18 Q. All right. Do you have an opinion to a
19 reasonable degree of certainty in your
20 professional field that during the timeframe of
21 February and March of 2006 that William had a
22 mental or brain ---

23 A. Yeah, and I put it on this slide. I do
24 think that William was under the influence of a
25 mental disturbance, mainly cocaine. For him to

1 understand and conform his behavior to what was
2 expected of him, it was substantially impaired
3 by these severe symptoms. It was hard for him
4 to conform his behavior when the behavior was
5 so out of control.

6 Q. Do you have an opinion as to William's
7 voluntary use of cocaine?

8 A. I think -- I do, (affirmative nod). I
9 think that he started off voluntarily using.
10 There's no question, no one forced it down him.
11 Given factors of his make-up, genetic and
12 environmental make-up, he went on to develop
13 the disease of addiction to where he doesn't
14 have control. In my opinion, he was using
15 involuntarily.

16 Q. All right. You talked about that he
17 initially started voluntarily, first off you're
18 referring back to when he first tried it at
19 approximately age fourteen?

20 A. Age fourteen, yes.

21 Q. All right. There's no doubt that by March
22 of 2006 that William was addicted to cocaine in
23 an involuntary manner?

24 A. His using it compulsively, the main
25 thought attached to any other thought is 'do I

1 need to use more cocaine' or 'how am I going to
2 get cocaine?'

3 Q. No doubt your opinion is that on March 7th
4 or 8th that the ability to conform his behavior
5 was substantially impaired?

6 A. I think it was substantially impaired.
7 Hopefully it's going to help people make sense
8 out of some of the horrible things that
9 happened during that period of time.

10 Q. No doubt on or around March 7th or 8th of
11 2006 that William, due to his cocaine
12 addiction, was under a mental disturbance?

13 A. He was under a mental disorder,
14 (affirmative nod).

15 MR. BLOOM: Thank you, Doctor.
16 Please answer any questions that the solicitor
17 may have.

18 THE COURT: Cross examination?

19 CROSS EXAMINATION

20 BY BRUCE DURANT:

21 Q. Dr. Morton, I've got a -- are you a
22 psychiatrist, too?

23 A. No, sir, I am not a psychiatrist. No.

24 Q. Are you qualified to diagnose mental
25 illness?

1 A. Oh, no, sir. I do not diagnose mental
2 illness type -- I do happen to know about
3 mental disorders but I do not make final
4 diagnosis by any means. No.

5 Q. Okay. Mr. Dickerson's capacity to conform
6 his conduct to the requirements of the law was
7 a psychiatric thing, was it not?

8 MR. BLOOM: No, sir, I would object.
9 That would be ---

10 THE COURT: What's the objection,
11 basis of your objection?

12 MR. BLOOM: That's a legal question.

13 THE COURT: I will allow him to
14 rephrase it. If the witness knows the answer,
15 he may answer it. But you have to rephrase it,
16 please.

17 BRUCE DURANT: May I approach
18 because I don't want to ---

19 THE COURT: Yes, sir, you may
20 approach, sir.

21 (OFF RECORD BENCH CONFERENCE)

22 CROSS EXAMINATION CONTINUED

23 BY BRUCE DURANT:

24 Q. I just want to be clear, Doctor, is your
25 testimony that cocaine addiction causes someone

1 to commit murder?

2 A. Causes one to?

3 Q. Commit murder?

4 A. It doesn't cause one to commit a murder.

5 It's something to consider in a situation where

6 a murder has occurred, to try to make sense of

7 that murder but it doesn't cause everyone to

8 commit murder by any means. No.

9 Q. Would it be safe to say, sir, that
10 millions of people are addicted?

11 A. Yes, in the world. Yes.

12 Q. And would it be safe to say that in the
13 United States that millions of people are
14 addicted to cocaine?

15 A. Yes, sir.

16 Q. Has there ever been any statistical
17 analysis to determine how many of those people
18 that are addicted to cocaine murder and torture
19 people?

20 A. There's only been studies of people
21 looking -- seeking treatment or who have been
22 incarcerated, looking at violence. I don't
23 think that it has been surveyed large --
24 (pause).

25 Q. So the answer is 'no'?

1 A. The answer is 'no.'

2 Q. Okay. During your testimony when you were
3 discussing the link between violence and
4 cocaine use, your decision was based on victims
5 of homicides having cocaine in their systems?

6 A. Yes, sir.

7 Q. Not the people that actually killed them?

8 A. No, sir.

9 Q. With regard to hallucinations, are you
10 aware that there were people who did see things
11 on this cell phone that he was showing?

12 A. Yes.

13 Q. Were you aware that there were people with
14 regard to the paranoia, that there were people
15 like Steven Archie that were out looking for
16 him?

17 A. I wasn't aware that there were people out
18 looking to hurt him, no.

19 Q. Were you aware that while he was torturing
20 Gerard Roper that he called people, told them
21 what he was doing and these people were out
22 looking for him?

23 A. I wasn't aware of that but I understand
24 what you're saying.

25 Q. That that would appear to be a legitimate

1 concern on his part, would it not?

2 A. Yes.

3 Q. Is the effect on the brain, the effects of
4 cocaine addiction on the brain permanent?

5 A. There are some permanent effects, yes.

6 Q. How is cocaine addiction treated?

7 A. Cocaine addiction is treated with a number
8 of different ways, both pharmacologically and
9 non-pharmacologically. It's mostly abstinence,
10 providing an environment where people can
11 abstain and look at their behavior.

12 Q. Is treatment for cocaine dependency or
13 addiction very successful?

14 A. It is -- there is a high relapse rate. No
15 question there is a high relapse rate. So it
16 can be successful, as compared to not treating
17 it at all but it's not as high as I would like
18 for it to be.

19 Q. What is sensitization?

20 A. Sensitization is where after exposure to
21 something you see more of a response from the
22 same amount. So x-amount might cause five
23 units activity and then the same dose later in
24 life might cause ten units of activity. So, it
25 sensitizes the nerves.

1 Q. What is sensitization in the realm of
2 cocaine psychosis?

3 A. It would be that symptoms at the same dose
4 would be getting worse, so people might go from
5 being a little suspicious to more suspicious to
6 mildly paranoid to paranoid all the time to
7 seeing people. That would be a sensitization
8 of that symptom, something getting worse at the
9 same dose.

10 Q. Same level?

11 A. Yes.

12 Q. So basically your psychosis becomes more
13 severe and occurs more rapidly with continued
14 use of cocaine?

15 A. Yes.

16 Q. Were the defendant suffering from cocaine
17 psychosis, would that not be true with him?

18 A. I am not sure exactly if he had a full-
19 blown state of psychosis, cocaine psychosis.

20 I do know that he had some psychotic symptoms.

21 That would be the diagnosis that -- I know that
22 he had some psychotic symptoms and that would
23 be something that a psychiatrist or a
24 psychologist would take into consideration in
25 making that diagnosis.

1 Q. Of course, you are -- did you review as
2 part, in preparation for this case, his record
3 with the South Carolina Department of
4 Corrections?

5 A. I reviewed some records. I did not have
6 those records.

7 Q. So you were aware that he, at least on
8 four separate occasions, tested positive for
9 narcotics while he was in prison?

10 A. That was told to me by Dr. Cunningham,
11 that he tested positive four times for
12 marijuana. I wasn't sure where it was. I
13 think it was in prison, but it was four -- I've
14 written down the dates. He did test positive
15 for cocaine metabolites.

16 Q. Also as a pharmacologist, you know that
17 cocaine and cocaine metabolites have an awfully
18 short shelf life as compared to, for example,
19 THC. Is that correct?

20 A. Yes, sir, they do.

21 Q. In other words, they don't stay in your
22 body nearly as long as THC does?

23 A. Not as long, no.

24 Q. Well, can you tell us what the relative
25 time is?

1 A. Well, with cocaine you can -- I'm sorry,
2 with marijuana -- I don't know which one that
3 you want to talk about first.

4 Q. Whichever you prefer.

5 A. Marijuana, the active drug would be out of
6 the blood in probably about six to eight hours.
7 There are two inactive metabolites, which we
8 refer to as carboxy metabolites, for marijuana
9 and that tends to be present for weeks and
10 maybe as long as a month in some individuals who
11 have been smoking on a regular basis. It comes
12 out very slowly. That would be a range of
13 anywhere from two to four weeks, depending on
14 the individual.

15 With cocaine, cocaine ---

16 Q. I don't mean to interrupt you, but would
17 the length increase if the intake goes up? Is
18 that a true statement or not?

19 A. That's a true inclination, yes.

20 Q. Now, tell us about cocaine.

21 A. Cocaine in the blood, the half -- I don't
22 know if you call it a half-life, but how long
23 it would take for the drug to be completely out
24 of the blood, would be somewhere similar to
25 marijuana, it would be between six and eight

1 hours. The metabolite of cocaine would be more
2 like about two days in the blood. It could be
3 a little bit longer in the urine, it might last
4 a little bit longer. Generally if you test
5 someone's blood in two or three days it won't
6 be present if you haven't used it.

7 Q. Okay. Are you aware that Mr. Dickerson
8 had sought help for his cocaine problem in the
9 past when he was in prison?

10 A. I was aware that he attended a program. I
11 don't know if that were voluntary, involuntary.
12 I didn't know how he sought treatment.

13 Q. But you would agree that the use of
14 cocaine is volitional?

15 A. I'm sorry?

16 Q. The use of cocaine is a volitional act?

17 A. Initially, yes.

18 Q. And you say that once they become addicts
19 that they are different circumstances?

20 A. I think that once people become an addict
21 that they crave it, think about it and use it
22 regardless of sometimes the consequences and
23 it's more likely involuntary behavior when you
24 look at the way that they use it.

25 Q. Just to be sure on this one point, there

1 is no correlation that says cocaine addiction
2 causes someone to murder and torture, that
3 someone just happens to be high on cocaine and
4 they are already a murderer and a torturer?

5 A. There's no correlation that I'm aware of
6 that it causes people to specifically cause
7 murder. It does cause them to be more agitated
8 and lessens the ability to inhibit impulses.

9 Q. As does alcohol?

10 A. Yes. Absolutely.

11 BRUCE DURANT: I have nothing
12 further. Thank you very much, Dr. Morton.

13 THE COURT: Redirect?

14 MR. BLOOM: Judge, if we may
15 approach?

16 (OFF RECORD BENCH CONFERENCE)

17 REDIRECT EXAMINATION

18 BY MR. BLOOM:

19 Q. Doctor, I just have a few followup
20 questions. Just to clarify, the information
21 that you received from the Department of
22 Corrections were four tests where he was
23 positive for marijuana. Is that your under-
24 standing?

25 A. Yes, sir.

1 Q. And negative for cocaine?

2 A. Yes, he was negative.

3 MR. BLOOM: Thank you, I have
4 nothing further.

5 THE COURT: Recross?

6 BRUCE DURANT: No, sir.

7 THE COURT: Thank you. Do you wish
8 Dr. Morton to be excused?

9 MR. BLOOM: Please, Your Honor.

10 THE COURT: Any objection,
11 Solicitor?

12 BRUCE DURANT: Not at all.

13 THE COURT: Dr. Morton, you may step
14 down. You are excused.

15 (WITNESS STEPS DOWN)

16 THE COURT: At this point, Ladies
17 and Gentlemen -- I know that you were out for a
18 little while, we were not. We're going to take
19 a break, let you go to your jury room. Do not
20 begin your deliberations. We will be with you
21 in about ten minutes or so.

22 (JURY OUT @ 3:35 P.M.)

23 THE COURT: Anything from the State
24 before we recess?

25 BRUCE DURANT: No, sir.

1 THE COURT: Anything from the
2 Defendant before we recess?

3 MR. BLOOM: No, sir.

4 (BRIEF RECESS)

5 (DEFENDANT PRESENT)

6 THE COURT: State is ready to
7 proceed?

8 BRUCE DURANT: Yes, sir.

9 THE COURT: Defense is ready to
10 proceed?

11 MR. BLOOM: Yes, sir.

12 THE COURT: Okay, let's bring in our
13 jury, please.

14 (JURY IN @ 3:55 P.M.)

15 THE COURT: Thank you, Ladies and
16 Gentlemen. We are ready to continue. You may
17 call your next witness.

18 MR. BLOOM: The defense calls
19 Johnette Watson.

20 (WITNESS TAKES STAND)

21 JOHNETTE RENEE WATSON, being duly
22 sworn to tell the truth, the whole truth and
23 nothing but the truth, testified, as follows:

24 DIRECT EXAMINATION

25 BY MR. BLOOM:

1 Q. Good afternoon, Johnette. How are you
2 today?

3 A. Fine.

4 Q. How do you know William Dickerson?

5 A. He's my first cousin.

6 Q. Did you'all grow up together or see each
7 other growing up some?

8 A. Um-humm.

9 Q. I'm sorry, you have to answer 'yes' or
10 'no' because she (court reporter) has to take
11 it down.

12 A. Sorry. "Yes."

13 Q. How -- in relation to his age, are you
14 older, younger?

15 A. About a year younger.

16 Q. Even though you're cousins, is your
17 relationship a little stronger than that or
18 more significant than that?

19 A. Yes, he's like a brother.

20 Q. He is like a brother to you?

21 A. Yes.

22 Q. All right. Now, growing up around
23 William, did he ever exhibit any kind of
24 violence around you in any way whatsoever?

25 A. No.

1 Q. Was he protective of you?

2 A. Yes.

3 Q. When he came home from the South Carolina
4 Department of Corrections around September of
5 '05, what were things like for him?

6 A. Things were good, he was around family, he
7 got a job not too long after, he got a car, he
8 was doing fine.

9 Q. What was his attitude like at that point
10 in time?

11 A. Positive and he was motivated to be around
12 life, to do good in his life.

13 Q. Was a point in time he was dating a young
14 lady by the name of Tierra McIntosh that he
15 worked with?

16 A. Yes.

17 Q. All right. Did you at some point in time
18 meet her, did the family meet her?

19 A. Yeah, I think it was either Thanksgiving
20 or Christmas that he brought her to meet us,
21 the family at grandmother's house.

22 Q. Did he seem excited about that?

23 A. Yes.

24 Q. Did that seem to be a new start in his
25 life?

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1 A. Yes.

2 Q. And was he doing well at that point in
3 time?

4 A. Yes.

5 Q. Did there come a point in time when his
6 relationship with Miss McIntosh ended and he
7 took up with someone else?

8 A. Yes.

9 Q. Would that be Shelley Nelson?

10 A. Yes.

11 Q. What did you note different about him --
12 well, let me back up and ask you this, at some
13 point did you ever meet Shelley?

14 A. Yes.

15 Q. And what was your impression at that point
16 in time?

17 A. I was, I guess, wondering how he went from
18 being with someone like Tierra to being with
19 someone with Shelley.

20 Q. Can you explain what you mean by that?

21 A. Well, when I met her she had orange nails,
22 orange hair and it was maybe mid-January,
23 February and we had shorts, like real short
24 shorts on and it was cold outside.

25 Q. Did you think she was good for William?

1 A. My first impression?

2 Q. (Affirmative nod).

3 A. No.

4 Q. Did there come a point in time when you
5 saw William after his relationship with Shelley
6 began that you noticed a change in his
7 appearance?

8 A. Yes, he went from being particular about
9 how he looked as far as his wardrobe, making
10 sure that everything matched, to looking like a
11 bum.

12 Q. Can you explain what you mean when you say
13 looking like a bum?

14 A. He wasn't clean-shaved. You know, he had
15 his hair cut and made sure that his appearance
16 was, you know, proper and he went without
17 getting his hair cut, not keeping his face
18 shaved, his clothes weren't clean. It was like
19 -- I remember that the clothes that I saw him
20 wearing was the clothes I'd saw him wearing
21 previously, the same clothes, the same week.

22 Q. All right. Did you suspect that he or
23 Shelley may have been using or abusing drugs?

24 A. Yes.

25 Q. Now, let me show you some photographs --

1 one, two, three, four.

2 COURT REPORTER: Defendant's
3 Exhibits 18, 19, 20 and 21 for identification.

4 DIRECT EXAMINATION CONTINUED

5 BY MR. BLOOM:

6 Q. I am going to show you first Defendant's
7 Exhibit 18. Who is that photograph?

8 A. William and Armon.

9 Q. Can you approximate how old they are, if
10 you're able to?

11 A. Probably like maybe five and two.

12 Q. So William would be five in that
13 photograph, or thereabouts?

14 A. (Affirmative nod).

15 THE COURT: Do you want those
16 admitted?

17 MR. BLOOM: I'm sorry, Your Honor.
18 I apologize. I would move that they be
19 admitted without objection.

20 SOLICITOR WILSON: I don't have any
21 objection to any of those photos.

22 THE COURT: That's fine, Defendant's
23 Exhibit 18 through 21 are admitted without
24 objection, each being a photograph.

25 (SO ENTERED AS DEFENDANT'S EXHIBIT 18)

1 (SO ENTERED AS DEFENDANT'S EXHIBIT 19)

2 (SO ENTERED AS DEFENDANT'S EXHIBIT 20)

3 (SO ENTERED AS DEFENDANT'S EXHIBIT 21)

4 DIRECT EXAMINATION CONTINUED

5 BY MR. BLOOM:

6 Q. Let me show you Defendant's Exhibit 19.

7 Who is that?

8 A. William.

9 Q. Is that a double shot of William?

10 A. Yes.

11 Q. Front and side?

12 A. Yes.

13 Q. Can you estimate how old he is in that
14 photograph?

15 A. Probably about seven or eight.

16 Q. And next is ---

17 MR. BLOOM: Your Honor, I would move
18 to ---

19 THE COURT: All of those have been
20 entered. Thank you.

21 MR. BLOOM: Thank you.

22 DIRECT EXAMINATION CONTINUED

23 BY MR. BLOOM:

24 Q. Next I want to show you Defendant's
25 Exhibit 20 and, again, is that William and

1 Armon?

2 A. Yes.

3 Q. Can you guesstimate how old William is
4 there, about?

5 A. Looks like about six or seven.

6 Q. Six or seven?

7 A. Yes.

8 Q. And lastly, Defendant's Exhibit 21, is
9 that also William?

10 A. Yes.

11 Q. Is that when he was at Tara Hall for Boys?

12 A. Yes.

13 Q. That would have been when he was about
14 eleven or thirteen?

15 A. Yes.

16 Q. Next let me ask you, finally, is there
17 anything that you want to ask this jury or tell
18 them about William?

19 A. He's basically a good person. He got
20 mixed up in the wrong things and I, I beg that
21 you have mercy on him.

22 Q. How would his execution impact on your
23 family?

24 SOLICITOR WILSON: Your Honor, I
25 object to that.

1 THE COURT: Sustained.

2 MR. BLOOM: Thank you, Johnette.

3 That's all that I have. Please answer any
4 questions that the Solicitor may have.

5 THE COURT: You may cross-examine.

6 CROSS EXAMINATION

7 BY SOLICITOR WILSON:

8 Q. Ms. Watson, I just have a couple of
9 questions. You mentioned that you met
10 William's girlfriend at your grandmama's house?

11 A. (Affirmative nod).

12 Q. Is that right?

13 A. Yeah, I met Tierra.

14 Q. Was that the grandmama that lived down the
15 street from William a long time ago, like when
16 he was growing up, she lived somewhere around
17 Spring Street?

18 A. Yes, two doors, two doors down.

19 Q. And that's the grandmama that when you'all
20 were, I guess around ten or twelve, when
21 William would run away he would run there and
22 stay with her?

23 A. Yes.

24 SOLICITOR WILSON: That's all that
25 I would have.

1 THE COURT: Redirect?

2 MR. BLOOM: Nothing, Your Honor.

3 THE COURT: You may come down.

4 MR. BLOOM: We would ask that this
5 witness be excused.

6 THE COURT: Any objection?

7 SOLICITOR WILSON: No, sir.

8 (WITNESS STEPS DOWN)

9 THE COURT: Ms. Watson, you are also
10 free to leave, ma'am. Call your next witness.

11 MR. BLOOM: Tierra McIntosh,
12 (tenders photograph to court reporter).

13 COURT REPORTER: Defendant's Exhibit
14 22 for identification.

15 (WITNESS TAKES STAND)

16 TIERRA MCINTOSH, being duly sworn to
17 tell the truth, the whole truth and nothing but
18 the truth, testified, as follows:

19 DIRECT EXAMINATION

20 BY MR. BLOOM:

21 Q. How are you today, Tierra?

22 A. I'm fine. How are you?

23 Q. Fine. Thank you, ma'am. Let me start by
24 simply asking you, how did you come to know
25 William Dickerson?

1 A. I met him on the job at the Sheraton.

2 Q. All right. Where did -- you worked at the
3 Sheraton?

4 A. Um-humm.

5 Q. What was your job there?

6 A. Help desk operator.

7 Q. What was his job?

8 A. He was a dishwasher.

9 Q. About when was that, do you remember
10 approximately, in 2005?

11 A. Maybe around September or October.

12 Q. And how did things start when you'all
13 first met?

14 A. Well, we first started talking on the job
15 and then like a couple of days later, around
16 the Fair, he asked he what I was doing that
17 night and I told him nothing, so we went out to
18 the Fair, we had fun and -- stuff like that.

19 Q. Was that kind of your first date together?

20 A. Yeah, it was fun. He's a good person.

21 Q. After that, did you'all continue to have
22 -- did your relationship start to grow a little
23 bit?

24 A. Yes, it started to escalate.

25 Q. Okay. How often would you see him during

1 that timeframe?

2 A. Almost every day.

3 Q. Because you worked together?

4 A. Um-humm.

5 Q. What are some of the other things that you
6 did together, went out and did together after
7 work?

8 A. We just basically stayed around family,
9 and we went for walks, things that couples do.

10 Q. Okay. What was his attitude like during
11 that timeframe?

12 A. His attitude was great with me. I've
13 never seen a violent side of him at all. I
14 mean, he treated me like a princess. He's the
15 best boyfriend I've ever had.

16 Q. Why do you say that?

17 A. Because -- well, we talked, he listened.
18 I mean, was always open arms, open ears, there
19 was never anything negative, everything was
20 positive.

21 Q. Was he protective of you?

22 A. In a way, just like a boyfriend, nothing
23 major.

24 Q. In a friendly, not overassertive way?

25 A. Right.

1 Q. All right. Did you at some point in time
2 during the Fall of 2005 introduce him to some
3 members of your family?

4 A. Yes, he met my grandmother, my mom, he met
5 my uncle's little girl and my uncle, he met my
6 brother and -- my grandmother just fell in love
7 with him.

8 Q. Your grandmother did?

9 A. Yes.

10 Q. Why was that?

11 A. He still -- I guess because of his spirit.
12 Her spirit completely agreed with him.

13 Q. Was he helpful around her, do things for
14 her?

15 A. Um-humm, anything that she said that she
16 wanted something he was right there -- food,
17 something to drink, it didn't matter what it
18 was, he was there.

19 Q. Now, did there come a point in time in
20 your relationship where he wanted to get more
21 serious but you did not?

22 A. (Affirmative nod).

23 Q. If you could, explain that.

24 A. During that point, I kind of backed away.
25 He did want to get serious but I -- I just

1 pretty much backed away.

2 Q. You weren't quite ready for that?

3 A. Exactly.

4 Q. Now, let me ask you next, did there come a
5 point in time where after your relationship
6 ended that you saw who else he was dating or
7 living with?

8 A. No. I've never met her at all. It was --
9 it was just -- it was crazy. I've never met
10 her.

11 Q. All right. So you've never met Shelley?

12 A. No, I've never met Shelley.

13 Q. But did you see William at some point in
14 time after he began his relationship with
15 Shelley?

16 A. Um-humm.

17 THE COURT: Was that a "yes", ma'am?

18 THE WITNESS: Yes. Yes.

19 MR. BLOOM: Thank you. This kind
20 lady (court reporter) has to take down your
21 answers and she can't take down a head nod.

22 DIRECT EXAMINATION CONTINUED

23 BY MR. BLOOM:

24 Q. What did you notice about his appearance
25 or demeanor after his relationship with Shelley

1 began?

2 A. His appearance went down, he started to
3 look dirty to me, weight loss, I mean
4 everything just went downhill from there.

5 Q. Was it a fairly drastic change?

6 A. (Affirmative nod), you could tell. It was
7 very drastic.

8 Q. Was there a point in time where you'all
9 had your picture taken together?

10 A. Yes.

11 Q. All right. Describe that event.

12 A. The Sheraton was throwing a -- I think it
13 was Elegant Night or, anyway, it was a ball and
14 we had to dress up to go in there. He met me
15 there. I mean, he wasn't dressed like me but
16 he met me there and we took photographs. It
17 was fun, no problems.

18 Q. Do you remember what month that was in
19 2005, approximately?

20 A. No, I can't remember. I think it probably
21 was -- it might have be in '06, maybe January.

22 Q. Early January?

23 A. I think so.

24 Q. Somewhere around the end of '05, early
25 '06?

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1 A. Um-humm.

2 Q. That was while you'all still had a
3 relationship together?

4 A. It was kind of off and on at that point
5 but we still had a good friendship.

6 Q. Let me show you Defendant's Exhibit 22 and
7 ask if you can identify that?

8 A. That's the photograph that me and William
9 took at the Sheraton ball.

10 MR. BLOOM: Your Honor, we would
11 move Exhibit 22 into the record without
12 objection.

13 SOLICITOR WILSON: No objection.

14 THE COURT: Without objection,
15 Defendant's 22 is admitted, a photograph.

16 (SO ENTERED AS DEFENDANT'S EXHIBIT 22)

17 DIRECT EXAMINATION CONTINUED

18 BY MR. BLOOM:

19 Q. Ms. McIntosh, was that during the period
20 of time that William was still doing well?

21 A. Yeah, he was doing well then.

22 MR. BLOOM: Please answer any
23 questions that the Solicitor may have.

24 THE COURT: Cross examine? Any
25 questions?

1 SOLICITOR WILSON: No, sir.

2 THE COURT: You may step down.

3 (WITNESS STEPS DOWN)

4 THE COURT: Dr. Rivers.

5 (WITNESS TAKES STAND)

6 JOHNNIE K. RIVERS, 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 MR. BLOOM:

11 Q. Dr. Rivers, what is your background and
12 your field?

13 A. I have -- I'm now retired. I worked in
14 the Darlington School District for fifteen
15 years as a School Psychologist III. Prior to
16 that, I worked at Waccamaw Mental Health as a
17 Psychologist III. That's when I was a
18 consultant at Tara Hall, through Waccamaw
19 Mental Health.

20 Q. That's when you saw William Dickerson,
21 when he was at Tara Hall when he was about
22 eleven or thirteen years old?

23 A. Yes.

24 Q. All right, please go again. What back-
25 ground do you have?

1 A. From '87 to '89, I was the Forensic
2 Psychologist with the Arkansas State Hospital
3 in Little Rock, Arkansas.

4 Then 1980 to 1987, I was a counseling
5 psychologist in an alcohol and drug treatment
6 program. The people were from California and
7 they set up a program there in Arkansas, and I
8 was a mental health psychologist.

9 Prior to that, before I received my Ph.D.
10 at the University of Mississippi in '81, I was
11 a guidance counselor and English teacher.

12 Q. All right. What field is your Ph.D. in,
13 your doctorate?

14 A. Educational counseling and psychology.

15 Q. All right. I believe that you told us
16 also that for a period of a few years that you
17 were a forensic psychologist at Arkansas State
18 Hospital?

19 A. Yes, I was.

20 Q. And you've testified before in the field
21 of Psychology?

22 A. Yes, I testified in Arkansas as a forensic
23 psychologist in criminal cases for
24 responsibility, as well as I was also a
25 consultant to the forensic unit. I have also

1 testified here in South Carolina, in Georgetown
2 in Family Court, as well as different
3 depositions in the professions that I have had.

4 Q. All right, ma'am. The last fifteen years
5 of your career, before you recently retired,
6 you were a school psychologist?

7 A. I was school psychologist for Georgetown
8 County School ---

9 Q. Thank you.

10 MR. BLOOM: Your Honor, at this time
11 I would move to qualify Dr. Rivers as an expert
12 in the field of child psychology.

13 THE COURT: Do you care to examine
14 her as to qualifications?

15 BRUCE DURANT: No, sir, Your
16 Honor.

17 THE COURT: She will be permitted to
18 render opinions in that area.

19 DIRECT EXAMINATION CONTINUED

20 BY MR. BLOOM:

21 Q. Dr. Rivers, I believe that you told us
22 when you started that you were consulted as a
23 child psychologist at Tara Hall?

24 A. Yes, I was.

25 Q. Can you briefly explain to the jury what

1 is Tara Hall?

2 A. Tara Hall is a home for boys. They take
3 children there for a two-year period of time to
4 remediate some of their problems. William was
5 there for two years. I only -- I became a
6 consultant there through Waccamaw Mental Health
7 and Tara Hall, uh, -- there was an agreement
8 between them and they received funding for
9 that. I was there when he was there, from
10 January of '90 until he left in June of 1992.

11 Q. So he was approximately thirteen years
12 old, does that sound about right?

13 A. (Affirmative nod).

14 Q. Does that sound about right?

15 A. (Affirmative nod). I do have the
16 information from Tara Hall that I did there. I
17 do not have the case notes from Waccamaw Mental
18 Health. But, you know, I did an evaluation of
19 him and I also did, obviously, clinical
20 interviews with him.

21 Q. When you say clinical interviews, can you
22 explain generally what those are in terms of
23 what your function was as a child psychologist
24 at Tara Hall?

25 A. He was referred for testing in May because

1 he had been home for a weekend and at that time
2 he had gotten drunk. So when he returned to
3 the facility, we wanted to know why he had had
4 this particular behavior. My understanding --
5 once I saw his picture, I did remember about
6 the case.

7 He, uh, we wanted to do what we could
8 do and what my information was, so I gave him a
9 -- like an educational evaluation to determine
10 if he needed any special education. Then I did
11 clinical interviews to determine what the
12 factors were that would have affected him in
13 that situation.

14 Q. Because that is highly unusual, for a
15 thirteen-year-old to be getting intoxicated,
16 impaired; is that fair to say?

17 A. I think it was, especially for him since
18 he had done so well there.

19 Q. He had done very well at Tara Hall?

20 A. Yes.

21 Q. Now, you taught him for a period of
22 approximately six months?

23 A. I would have probably seen him in
24 individual sessions and/or small group
25 sessions. That was the beginning of the grant,

1 so therefore we had groups. I probably would
2 have seen him with a group and then, of course,
3 after we saw this behavior then I did an
4 evaluation.

5 Q. Would you say that you saw him on an
6 average of once a week during that time period?

7 A. It would be hard for me to say, it's been
8 twenty years and I don't have my case file with
9 me.

10 Q. Fair enough. What do -- in terms of your
11 evaluation of him, did you have access to the
12 Medical University of South Carolina records?

13 A. What you and your assistant sent me was
14 more than likely what I had at Tara Hall to do
15 my evaluation. Among those things was a
16 psychiatric evaluation from MUSC. Yes, that
17 was one of them.

18 Q. All right. He was admitted to Tara Hall
19 when he was approximately eleven years old?

20 A. I think that would be correct.

21 Q. That was a psychiatric evaluation at the
22 Medical University of South Carolina or some
23 other facility?

24 A. From the records that appears to be so.

25 Q. What was going on his life or what was

1 important -- being a child psychologist, for an
2 eleven-year-old to be referred to Tara Hall, to
3 have a psychiatric referral, is that normal?

4 A. Yes. Prior to doing an evaluation, of
5 course I look at all the materials and I looked
6 at -- I'm sure, I'm trying to reconstruct what
7 I would have done at hat time. One of the
8 things that I looked at was the Tara Hall
9 application. On the application there was a
10 very important marker that needed to be dealt
11 with. Of course you've heard about his running
12 away, etcetera, but ---

13 BRUCE DURANT: May we approach?

14 THE COURT: Ladies and Gentlemen, I
15 am going to ask you to go to your jury room.
16 Don't begin your deliberations, we'll be with
17 you in just a moment.

18 (JURY OUT @ 4:20 P.M.)

19 THE COURT: I anticipated that there
20 was going to be an objection to this and ---

21 BRUCE DURANT: My objection would
22 be that she doesn't appear to say that she used
23 this document in the psychiatric evaluation,
24 when she was doing her evaluation.

25 I guess my objection is that I need to

1 make sure that she is testifying as to what
2 happened as to what she thinks might have
3 happened.

4 THE COURT: The Court's concern -- I
5 don't have any probably with this witness being
6 able to -- that these documents would have been
7 documents that maybe she would have considered
8 at the time that she conducted whatever
9 evaluation. That's fine. The problem that I
10 have is something that she said earlier on.
11 She said, 'I don't have my case file and I'm
12 having to reconstruct this from memory.'

13 THE WITNESS: It's not just memory. I
14 have a memory of seeing him from seeing a
15 picture of ---

16 THE COURT: Oh, I understand that
17 you may remember him. But what was in file and
18 what you considered, you don't have anything
19 other than what they've sent you.

20 THE WITNESS: There are no files to my
21 understanding.

22 THE COURT: I understand that. You
23 don't have anything that you can say, "Yes, I
24 considered this." You can only say 'this is
25 something that I most probably would have

1 seen.' But you don't know whether you saw it
2 or didn't see it.

3 THE WITNESS: I would have had to have
4 seen the Tara Hall application, that I had to
5 have seen.

6 THE COURT: That's fine, but after
7 that what else do we have other than that you
8 -- basically it's supposition on your part.

9 THE WITNESS: Other than the fact that
10 as practicing psychologists and we do use
11 certain protocols in our evaluations.

12 THE COURT: I don't have any problem
13 as long as we're talking about you being -- for
14 the purpose of evaluating a record. If that's
15 the case. You're couching it as what she did
16 then and that's the problem that I have.

17 MR. BLOOM: Do you want me to ask
18 her ---

19 THE COURT: I just don't think that
20 she can testify as to what she did then because
21 there not -- we don't know what -- there's
22 nothing here to help this witness other than
23 what you've given her. I am not suggesting
24 that you've given her anything that she
25 wouldn't have had, nor am I suggesting that you

1 didn't have that. The problem is that you
2 can't tell me absolutely, "I considered these
3 three documents."

4 THE WITNESS: I can't absolutely tell
5 you. I did consider this, which was the
6 application that ---

7 THE COURT: That's fine. The
8 material that came from MUSC, that was
9 something that was given to you and you said,
10 'I think I would have probably seen this.'

11 THE WITNESS: It would have probably
12 been in the record.

13 THE COURT: But you don't know
14 whether it was or wasn't. You can't testify to
15 that?

16 THE WITNESS: (Negative gesture), I
17 can't testify to that.

18 THE COURT: Precisely.

19 MR. BLOOM: All right, I will stick
20 to what she had.

21 THE COURT: All right, that's fine.
22 If you will couch your questions -- in
23 reviewing the application -- I don't have any
24 problem, she was there, doing that, considering
25 that. If you want to ask her her opinions

1 within the area of her expertise, that's fine.

2 It just can't be what she was doing at the time

3 that this person was there.

4 MR. BLOOM: Yes, sir, I'll stay away
5 from the MUSC records.

6 BRUCE DURANT: That is what I
7 meant to say.

8 THE COURT: Thank you. All right,
9 let's bring in the jury, please.

10 (JURY IN @ 4:23 P.M.)

11 THE COURT: Thank you very much.
12 You may continue your examination.

13 DIRECT EXAMINATION CONTINUED

14 BY MR. BLOOM:

15 Q. Based on the documents that you recall
16 that you had available to you during your time
17 with William, were there any concerns that you
18 had as an expert in your field at the time?

19 A. Yes, there was a specific marker that was
20 noticed, that was a thing that we look at when
21 we are looking at children and behavior.

22 Two -- one of the things was that he threw
23 a brick which struck his mother, which is in
24 her report, and he also broke a bottle "to cut
25 me".

1 Another thing that I noticed what that
2 there was absolutely no suspensions from
3 school, he had had no problems with school and
4 that he had done well.

5 The behavior the mother appeared to have
6 reported on this document was around the time
7 when she placed him in there and that he had
8 made two suicide attempts.

9 Q. Let me just go back and break that down.
10 You gave us a lot of information there.

11 First, so that I understand the time
12 frame, he was about eleven when he came to Tara
13 Hall?

14 A. Um-humm.

15 Q. Some of this information is from the
16 admission records ---

17 A. --- to Tara Hall, (affirmative nod).

18 Q. I just wanted to orient us as far as time
19 frame.

20 A. (Affirmative nod).

21 Q. One of the reports by his mother was that
22 he had thrown a brick and had broke a bottle in
23 an attempt to cut her.

24 A. Yes.

25 Q. You don't know if that is true or not.

1 You just know that's what was reported.

2 A. Yes.

3 Q. Is there then conflict--, -- other
4 information from the school reports that didn't
5 seem to be consistent with that type of
6 behavior?

7 A. He had absolutely no behavior problems at
8 school. That's in her report, that there were
9 no problems at school.

10 Q. Why is that significant to you, that you
11 may have that alleged extreme behavior at home
12 but not that type of behavior at school?

13 A. Generally children, and the probability
14 was, uh, that children that are this aggressive
15 and have this -- have violent explosions
16 against their mother, they are also acting out
17 in other ways in other places. It was
18 interesting to note that with William that it
19 seemed specific to his mother but not to his
20 school environment.

21 Q. Any other matters that had access to
22 during the time frame when you were evaluating
23 William?

24 A. Of course, the interview with him. In the
25 interview, of course this is my information. I

1 had to ascertain why he would have behaved this
2 way when his behavior appeared to be so
3 different in Tara Hall.

4 So we did a geography of his family
5 situation and what was going on in the area
6 that he lived in on his weekend visits.

7 I also did a social graph of the family to
8 understand how many family members there were
9 involved and how he associated himself with the
10 family members in this area. I think that
11 there were thirteen or twelve -- twelve aunts
12 and uncles and cousins.

13 Q. All right. Ma'am, based on the
14 information you had of the explosive behavior
15 -- well, let me, before I get to that question,
16 you also had available to you, I think you said
17 in your statement, information about two recent
18 suicide attempts he'd made by age eleven.

19 A. That was on the report that he had had
20 suicide attempts or that he had been suicidal.

21 Q. That was information that you had back at
22 the time frame that you ---

23 A. On this, the Tara Hall application.

24 Q. Did that cause you any particular concern
25 given the young age of William?

1 A. Yes.

2 Q. And what is that, why was that
3 significant?

4 A. In psychological, we deal with
5 probabilities. When you have certain markers
6 that are available to you, then one has to take
7 as a psychologist these markers and try to
8 assess probabilities of what had happened.

9 With the explosive type behavior that he
10 displayed towards his mother, one would
11 question why these behaviors were not being
12 displayed to other authority figures.

13 In the practice of psychology, most
14 children will generally display oppositional,
15 defiant behavior to all authority figures.
16 William displayed most of his explosive
17 behavior to his mother. So this was more
18 significant because it appeared to be focused.
19 Therefore, I can to come up with some
20 probabilities of why this happened.

21 One of the most likely probabilities was
22 sexual molestation, another likely probability
23 in the neighborhood would have been the
24 possibility of having seen a traumatic or
25 severe occurrence which he was a party to, or

1 his family. So these were probabilities that I
2 had that I could ques--, -- that I probably
3 questioned him about.

4 Q. You say one of the things that, in your
5 professional opinion, concerned you greatly was
6 the possible molestation?

7 A. Yes.

8 Q. Can you explain -- I know we're all adults
9 but in your professional opinion could you
10 explain specifically what you mean by that?

11 A. It would probably be some type of sexual
12 attack. In my professional practice with many
13 children that reflect explosive behavior, often
14 times there are some traumatic events that have
15 happened to them and one frequent occurrence is
16 a sexual attack. There are different -- there
17 could be different perpetrators, so therefore
18 that would be something that I would explore,
19 that we would explore with the child.

20 Q. So did you reach an opinion back then when
21 you were evaluating William that you had a
22 strong clinical suspicion of sexual molestation
23 of William?

24 A. I would not have written that in my
25 report. I do have a short summary written, but

1 also there is a psycho/education evaluation.
2 It's been my experience than when reports go
3 out that everyone in the school district will
4 tend to read them, so I would not put something
5 like that in a report, just for his privacy and
6 confidentiality. I can read you what I did
7 write.

8 Q. That would be fine. Well, let me stop you
9 there and go next to -- based on your
10 professional experience at the time and the
11 information that you had at the time, was there
12 anything else that you did regarding your
13 conclusion that William had -- that there was a
14 strong probability he had been subject to
15 sexual exploitation?

16 A. Or experienced some type of trauma in his
17 neighborhood, with friends or family.

18 Q. All right. Anything else you did in that
19 regard?

20 A. I don't have the case notes.

21 Q. You don't have the case notes?

22 A. No. But more than likely -- he was under
23 the care of DSS, Foster Care Review. Foster
24 care review was done periodically, so
25 probability -- a high probability would be that

1 some of this had been discussed, at least at
2 the foster care review meetings.

3 Q. I assume that those records that some of
4 those records are still available.

5 A. If they're still available.

6 MR. BLOOM: Beg the court's
7 indulgence for one moment?

8 THE COURT: Certainly.

9 MR. BLOOM: Thank you, ma'am.
10 Please answer any questions that the Solicitor
11 may have.

12 THE COURT: You may cross examine.

13 CROSS EXAMINATION

14 BY BRUCE DURANT:

15 Q. Good afternoon, Dr. Rivers?

16 A. (Pause) -- and your name is, Mr. ---

17 Q. Durant. Now, you did a psychological
18 assessment of Mr. Dickerson back in 1990, is
19 that correct?

20 A. A psycho-educational evaluation with
21 clinical review.

22 Q. As part of that, you gave him an IQ test?

23 A. Yes, I did.

24 Q. And his IQ was 90, a full-range scale IQ
25 of 90?

1 A. (No verbal response).

2 Q. Correct?

3 A. That's correct.

4 Q. No mental deficits?

5 A. There was a slight learning issue but it
6 could not be identified legally for special
7 educational purposes.

8 Q. The intellectual testing indicated normal,
9 average functioning, IQ of 96, SFIQ of 90?

10 A. That's exactly right.

11 Q. Normal?

12 A. Yes, but learning disabled children are
13 also of normal IQ.

14 Q. He is not learning disabled, is he?

15 A. That's what I tested to determine.

16 Q. Okay.

17 A. Just because an IQ is normal doesn't
18 necessary mean that they are not.

19 Q. The point is that he is of normal
20 intelligence, correct?

21 A. There are two deficits that, with his ---

22 Q. And how did he perform in school at Tara
23 Hall?

24 A. He was on average.

25 Q. So he had average intelligence, he was an

1 average student. Correct?

2 A. Let me get his scores. I hate to say
3 without -- (upon review), yes. His composite
4 grade level in the sixth grade was 6.6.

5 Q. He had not been diagnosed with any mental
6 illness?

7 A. I wouldn't know that. That would be
8 something that you would have to explore with
9 the other -- I think that there is an MUSC
10 report that would indicate that.

11 Q. That you've reviewed?

12 A. Recently, yes.

13 Q. Yes.

14 A. That I know for sure.

15 Q. Which didn't indicate that he suffered
16 from any mental illness?

17 A. Yes, it does.

18 Q. It says that he suffered from depression?

19 A. (Affirmative nod), which is a mental
20 illness.

21 Q. Okay. That was the only thing. Not from
22 schizophrenia or any of that, is that correct?

23 A. In a child depression is a very, very huge
24 psychiatric ---

25 Q. I understand depression. But, like I

1 said, there was no schizophrenia or anything
2 like that. He was depressed, he was a
3 depressed child.

4 A. No, he had major depression; which is a
5 clinical illness, it is a mental disorder. He
6 had absolutely no other childhood disorders:
7 oppositional defiance, conduct disorders,
8 attention deficit, hyperactivity. He had major
9 depression, which is a major psychiatric
10 disorder and I've got the book here if you want
11 to review any ---

12 Q. I understand that, I've read the book too.

13 A. Okay.

14 Q. Okay. Can you tell me this, who reported
15 to you that he had been sexually abused?

16 A. No one reported that he had been sexually
17 abused.

18 Q. Did you talked to him, did he report to
19 you that he had sexually abused?

20 A. No.

21 Q. Did anyone in his family report to you
22 that he had been sexually abused?

23 A. No.

24 Q. Did any of his friends report to you that
25 he had been sexually abused?

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1 A. No.

2 Q. Did anyone from any source ever report to
3 you that he had been sexually abused?

4 A. That, no -- that I can remember, unless it
5 was dealt with in the DSS records.

6 Q. So based upon that information and the
7 fact that the mother has put something in the
8 intake sheet about him throwing a brick, you
9 have reached the conclusion that he was
10 sexually abused?

11 A. No, sir. We have to look at the
12 probabilities. The probabilities are that he -
13 --

14 Q. I heard you testify, but I'm trying to ---

15 MR. BLOOM: I object to ---

16 THE COURT: Let me answer the
17 question and then you can ask another question.

18 THE WITNESS: That would probably have
19 been an incorrect summary, what you said about
20 "he threw a brick". That was -- no, it was
21 more than that. It was a list of probabilities
22 that we would look at, markers that we would
23 see in children. Children definitely don't
24 want to tell that they've been sexually
25 molested either because -- and these are

1 probabilities -- they are ashamed of it or
2 they've been told that if they tell that they
3 will be hurt.

4 CROSS EXAMINATION CONTINUED

5 BY BRUCE DURANT:

6 Q. I understand that, but most time there is
7 some evidence of it; is there not?

8 A. In some of those areas it's all behavior.

9 Q. And those same behaviors could be
10 explained by other things, could they not?

11 A. Yes, such as having seen a traumatic event
12 or participating or having something occur that
13 would be very traumatic.

14 Q. It could be a product of his environment?

15 A. Well, we are all a product of our
16 environment. Are you being specific? In which
17 area?

18 Q. I am saying that you determined, in your
19 report that, (reading): "William lives in a
20 neighborhood where alcohol and drugs are easily
21 bought. William described an area that had
22 pool halls, bars and shootings."

23 A. Yes, that's in my report.

24 Q. That could cause depression, couldn't it?

25 A. Now, see, you're asking for a clinical

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1 opinion and that would be hard to say, that
2 would be too little information to come up with
3 that conclusion.

4 Q. You came up with another conclusion with
5 such as little information.

6 A. No, sir, I had probabilities. I had a
7 list of things, I had clinical interviews, I
8 had information from him.

9 Q. So, of course, you reported that to the
10 Department of Youth Services?

11 A. No, sir, we would never report that to the
12 Department of Youth Services. That would be
13 inappropriate.

14 Q. I meant to the Department of Social
15 Services?

16 A. It probably was reported. He was already
17 in DSS for foster care review, so it should be
18 there.

19 Q. Are you not obligated by law to report
20 suspected sexual abuse to the Department of
21 Social Services?

22 A. Of course we are.

23 Q. And did you do so?

24 A. I'm telling you that if you look at the
25 case records that he was under the care of DSS.

1 I cannot make anyone actually evaluate any type
2 of position.

3 Q. I understand that. I've seen all of these
4 records too, ma'am, and I can't -- can you
5 point out anywhere in these records where the
6 family was investigated for sexual abuse?

7 A. I don't have those records.

8 Q. You were not provided those records by
9 defense counsel?

10 A. Do they have them?

11 Q. I am sure they do.

12 THE COURT: Mr. Durant, that's
13 argumentative. Let's move on. She's answered
14 your question, she doesn't know.

15 CROSS EXAMINATION

16 BY BRUCE DURANT:

17 Q. One other thing, you mentioned two suicide
18 attempts. Where did you get that information?

19 A. It should be on -- it's on the Tara Hall
20 reports.

21 Q. Can you -- I'm sorry, I don't have the
22 Tara Hall report. Can you show me where ---

23 A. Where in my report -- (upon review), do
24 you want me to read my report?

25 Q. No, I want you to show me in that report

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1 where the information was and where it came
2 from. I just want to know where the
3 information came from.

4 A. Well, Mr. Durant, I can't find it right
5 this moment.

6 Q. Has the defense made you privy to the
7 psychiatric evaluation that was performed on
8 him at the Medical University dated May 12,
9 1988, by Dr. Nuredini. I believe that it may
10 be ---

11 A. Let's see if I can -- yes, Ray Nuredini, a
12 resident. Yes.

13 Q. That was provided to you by the defense in
14 this case, is that correct?

15 A. Yes.

16 Q. And I believe that was done at the time he
17 was admitted to Tara Hall, is that correct?
18 Or just shortly before his admission to Tara
19 Hall?

20 A. Just shortly before.

21 Q. Pardon me?

22 A. (Affirmative nod), shortly before.

23 Q. What does that evaluation indicate
24 regarding suicide attempts, right down at that
25 bottom of page one?

1 A. (Reading): "William reports that..." -- do
2 you want me to read it?

3 Q. The last sentence, I would say that you
4 read.

5 A. (Reading): "William has only a few friends
6 now and plays much less than he used to. He
7 has wondered whether there is any hope or
8 whether life is worth living, but has not made
9 a suicide attempt."

10 Q. Are you aware of any suicide attempts that
11 he made between that psychiatric evaluation and
12 the time that you saw him?

13 A. Under Mental Status, "He acknowledges
14 suicidal thoughts but does not a plan. Affect
15 is sad, and insight was minimal."

16 Q. Also, if we are going to read the
17 psychiatric evaluation, what does it say as to
18 the other side as to when he started becoming
19 depressed?

20 A. That would be under Assessments?

21 Q. History of present illness.

22 A. (No verbal response).

23 Q. Who brought him in for psychiatric
24 treatment?

25 A. Under history, "Repeated running away from

1 home, uncontrollable behavior, failing school
2 performance."

3 Q. So he was failing school before he got to
4 Tara Hall, is that correct?

5 A. That's what this states, yes.

6 Q. Running away from home?

7 A. (No verbal response).

8 Q. And what did his mother cite as the onset
9 of his depression?

10 A. The mother recalls his oppositional
11 behavior starting at Christmas of 1987,
12 (reading): "William had hoped to receive a Mike
13 Tyson doll and when he did not, it upset him
14 greatly. William was noted to be more
15 controlling, pouty and when confronted by his
16 mother would not conform and not listen. At
17 other times they fought, engaging verbally and
18 sometimes physically. William began running
19 away from home, but always to his grandmother's
20 house. Initially this simply irritated Ms.
21 Dickerson but she knew that he was safe, but on
22 later occasions he would stay longer, for
23 example two days, and sometimes he would go to
24 other houses. Due to the physical
25 aggressiveness and running away, Ms. Dickerson

1 tried to enlist the aid of several agencies,
2 including the local mental health center, the
3 emergency room, continuum care, the Department
4 of Youth Services and ultimately the police.
5 She has been frustrated with the help that she
6 has received and she states "no more".

7 Q. Okay, you don't need to read the whole
8 report. So it was his mother who brought him
9 in for help?

10 A. (Affirmative nod).

11 Q. And it sounds like his mother was trying
12 to get him some help?

13 A. Yes.

14 BRUCE DURANT: I have nothing
15 further.

16 THE COURT: Redirect?

17 REDIRECT EXAMINATION

18 BY MR. BLOOM:

19 Q. Is there anything else significant in the
20 MUSC report that -- the Solicitor had you read
21 certain portions and I'm not going to stand
22 here and have you any paragraph there, but is
23 there anything in your view as a professional
24 that is significant from that MUSC report?

25 A. (Reading): "William reports that he is

1 very unhappy at home and sometimes feels he
2 can't tolerate his mother. He acknowledges
3 sometimes not listening or defying her, but
4 states that she naps a lot. He questions
5 sometimes whether he is really loved. He
6 admits to feeling bad most of the time,
7 frequent crying. He states that he has
8 sleeping poorly, has difficulty falling asleep
9 and difficulty in waking. His appetite is
10 poor. Mother conforms all of these aspects of
11 depression and goes on to state that she
12 suffers from all of the above symptoms even
13 worse than William. William has only a few
14 friends now and plays much less than he used
15 to."

16 Q. What do you find significant about that,
17 for an eleven year old?

18 A. He appears quite hopeless in this
19 evaluation process, but probably the most
20 important thing to me was the assessment that
21 the psychiatric resident made when he said that
22 "William is suffering from depressive symptoms
23 and meets criteria for major depression", which
24 is one of the psychiatric diagnoses that has to
25 follow certain criteria.

1 His history, "Premorbid functioning followed by
2 a consistent five-month period of full-
3 spectrum features suggests some other
4 diagnosis."

5 Q. What does that mean, that sentence that
6 you just read to us?

7 A. Well, he had good premorbid -- prior to
8 this time he had good functioning. Then you
9 have to have a certain period of time in which
10 you have these symptoms and he had a period
11 when he had a full spectrum of the requisite
12 features.

13 Again, this is a very unusual diagnosis
14 for a child this age, especially a male.
15 Usually when we see these children they have
16 something that is called a conduct disorder,
17 they are hyperactive, and this was a very
18 different type of ---

19 Q. Very serious for an eleven-year-old?

20 A. Yes, it is.

21 Q. Is there also in there -- and I believe
22 that I may been the one to use the words
23 "suicide attempts". If I am, I want to
24 apologize because the report actually says
25 "threats of suicide".

1 A. (Affirmative nod), threats of suicide.

2 Q. All right. Thank you for correcting me.

3 Did William, during your clinical interviews
4 with him at Tara Hall, ever reveal to you some
5 of his mother's substance abuse?

6 A. No, that's in the MUSC report.

7 Q. What is that?

8 A. That he had seen her -- let's see,
9 (reading): "William denied using alcohol or
10 illicit drugs, he acknowledges seeing his
11 mother using marijuana" -- which she did not
12 admit. "William likes sports and TV."

13 Q. Now, do you recall whether or not you made
14 a recommendation to DSS -- I think you told us
15 that William was under DSS foster care during
16 the time he was at Tara Hall.

17 A. (Affirmative nod).

18 Q. Do you recall whether or not you made a
19 recommendation to DSS that he not be sent back
20 home?

21 A. No. It would have to be on the report.
22 The review board indicated from -- you have the
23 records from Tara Hall, for the foster care
24 review board, and I think it was recommended to
25 return him home.

1 Q. The solicitor's cross-examination
2 questions that he posed to you or any other
3 matters that he called your attention to, does
4 that change your opinion in any regarding --
5 the opinion that you held when William was
6 thirteen that he had been sexually molested?
7 Does that change your opinion?

8 A. No.

9 MR. BLOOM: Thank you.

10 THE COURT: Recross?

11 RECROSS EXAMINATION

12 BY BRUCE DURANT:

13 Q. That opinion is pure speculation?

14 A. I'm sorry?

15 Q. That opinion is purely based on
16 speculation?

17 A. No, sir. I was a practicing psychologist.
18 I would never say that.

19 BRUCE DURANT: Thank you.

20 THE COURT: You may come down. Do
21 you wish Dr. Rivers to be excused?

22 MR. BLOOM: I do, Your Honor.

23 THE COURT: Any objection, Mr.
24 Durant?

25 BRUCE DURANT: No, sir.

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1 THE COURT: You are also free to
2 leave.

3 (WITNESS STEPS DOWN)

4 THE COURT: Do you have any
5 additional witnesses?

6 MR. BLOOM: Nothing further today.
7 If we may, Your Honor, our next witness is
8 rather lengthy and we'd ask for a recess until
9 tomorrow.

10 THE COURT: Ladies and Gentlemen, at
11 this point we will take a recess for the
12 evening. Please do not begin your
13 deliberations, please do not discuss this case
14 among yourselves and permit anyone to talk to
15 you about it or talk about it in your presence.
16 I hope that you have a good evening and I ask
17 that you be in your jury room at 9:30 in the
18 morning. Thank you.

19 (JURY OUT @ 5:00 P.M.)

20 THE COURT: Anything from the State
21 before we recess?

22 BRUCE DURANT: No, sir.

23 THE COURT: Anything from the
24 Defendant before we recess?

25 MR. BLOOM: Nothing, Your Honor.

1 THE COURT: Thank you. See you in
2 the morning at 9:30.

3 (COURT IN RECESS)

4 (TRANSCRIPT CONTINUED NEXT PAGE)

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1 MAY 6, 2009

9:30 A.M.

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(DEFENDANT PRESENT)

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THE COURT: Good morning. Anything
before we bring in the jury?

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MR. BLOOM: Yes, Your Honor, we
would like to make a verbal proffer. Yesterday
when Johnette Watson was on the stand, I asked
her the question what effect William's
execution would have on her and her family.

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I've done some done some additional
research. I cannot find a South Carolina case
in this context which directly addresses it but
I understand that the case law is clear that a
witness cannot give an opinion to the jury as
to either imposing a death sentence or a life
sentence or life as mercy.

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I am also aware, Your Honor, that
there is emerging case law in other
jurisdictions and I would briefly cite them in
a moment, which has begun to allow this type of
testimony. To characterize it, for lack of a
better term, it would be reverse-Payne
testimony, under *Payne v. Tennessee*, or
defendant impact testimony, victim impact

1 testimony.

2 The rationale of the state courts that
3 have begun to allow it is that it goes to the
4 character of the defendant.

5 Of course at this phase, under *Locket*
6 (*phonetic*) v. *Ohio* and other cases, the
7 character of the defendant is at-issue. The
8 reason the other state courts have analyzed it,
9 it goes to the character of the defendant, as I
10 interpret the case law, is that it attests to
11 that family relationship between the witness
12 and the defendant as to what impact his death
13 would have on the family.

14 What Ms. Watson would have testified
15 to is that William's death would have had a
16 huge impact on the Dickerson and Watson family,
17 Watson being the maternal side of his family,
18 his cousins. Part of the unique reason for
19 that is that Johnette Watson has lost a brother
20 to homicide recently, within the last year or
21 so, and another cousin of William Dickerson has
22 been the victim of a homicide, I believe about
23 three years ago. So the death of William would
24 exacerbate that. That would have been the
25 extent of her testimony.

1 The cases that I would cite to are:

2 *State of Oregon v. Stevens*, 879 Pacific

3 2nd 162, 1994;

4 *Richmond v. Arizona*, that from the

5 Supreme Court of the United States, 506 U.S.

6 40, 1992. Not to mislead the court, that U.S.

7 Supreme Court case doesn't specifically allow

8 this type of testimony, it just recognizes in

9 the body of the Opinion, but Arizona does.

10 *Cardoni v. Florida*, 641 Southern 2nd

11 361, 1994.

12 *Arizona v. Mann*, 934 Pacific 784, a

13 1997 case.

14 Thank you, Your Honor, for allowing me

15 to make that proffer.

16 THE COURT: I assume that the

17 objection still remains today as to that line

18 of questioning?

19 SOLICITOR WILSON: Yes, Your Honor,

20 especially in light of the additional testimony

21 that would be tied to it regarding other deaths

22 in the family. I think that injects

23 extraneous, irrelevant matters into the jury's

24 province. They can get in all that evidence of

25 love and affection, the meaningfulness that the

1 Defendant's life has to them without going to
2 that next question. I think the inference will
3 be and that there wouldn't be any prejudice not
4 asking that one question.

5 THE COURT: Anything else, Mr.
6 Bloom? Do you wish to respond to what the
7 solicitor has stated, in any way?

8 MR. BLOOM: No, sir. I would make a
9 note, just out of caution, that one of my
10 experts at some point in their testimony will
11 be referring, most likely, in a brief fashion
12 to at least one of the homicides of Mr.
13 Dickerson's cousins that had happened prior to
14 this incident. It would be something involved
15 him, his background and family. I just wanted
16 to make the court aware of that.

17 THE COURT: Certainly I can -- I am
18 not a psychiatrist or a psychologist but I can
19 possibly connect that right off with how that
20 could have had an influence or affect on Mr.
21 Dickerson and that is certainly relevant as to
22 him and his character, his make up.

23 I don't have any problem with the door
24 that the courts have used to allow this to
25 enter, this line of questioning. I looked, as

1 you did, and I didn't find -- the only thing,
2 as I mentioned, I sustained the objection
3 primarily because courts have recognized that
4 we can't talk about specifically whether they
5 like the execution, whether they approve of it
6 and, as you pointed out in a sidebar, their
7 opinion of whether they believe life would be
8 better than the death sentence is certainly not
9 relevant, that it is not appropriate.

10 Given those two, my thought process is
11 that it's not any way to do that, because it's
12 not relevant. My concern is primarily, as we
13 touched on that, I understand what they're
14 talking about because they're talking about
15 that familial relationship, that the familial
16 relationship is so important that it speaks
17 directly to his character, as to whether they
18 are close. But she testified to that, I think
19 she even said 'I am a cousin but he's like my
20 brother.' That, without saying a lot, probably
21 goes to the height of the relationship. It is
22 a credit to her but it's also a credit to him,
23 as to how he treated her. That evidence is
24 already before the jury.

25 I think, really and truly, in

1 listening to you I really would liken it to --
2 and I am going to use this as a primary --
3 first of all, I don't think it is relevant, but
4 if it is relevant for that limited purpose, I
5 think we are getting dangerous close to 602 as
6 to how that really would be his mindset. But
7 given the inferences to be drawn, I don't find
8 that they are necessarily unreasonable.

9 But the same is true, and we just had
10 one and -- the record is -- I didn't put this,
11 but they're clearly marked for identification.
12 We've pared down dramatically the number of
13 photographs of the autopsy. I went back last
14 night and reread those cases, I want to be --
15 the Supreme Court could review this case. I'm
16 comfortable because the cases talked about how
17 important it was to tie those in to some
18 medical, my paraphrasing, but basically some
19 medically-diagnostic purpose. It's clear from
20 Dr. Schandl's testimony that it definitely was
21 germane and that it was very significant to her
22 assessment that she was required to make as a
23 forensic pathologist. They certainly were not
24 very pleasant pictures. I don't think that
25 they would fall in the category of gory. The

1 ones that we ruled out, and we cut those down
2 primarily for the reason that the court has
3 said that in several cases, 'yes, they are
4 pertinent, you need to make' -- the test is
5 where it goes beyond that point, to then start
6 appealing to the sympathy and emotion of a
7 jury. That's not proper, because then we get
8 into trying to attack something of a human
9 being that is not germane and is not pertinent.

10

11 Well, if that's prevented on the
12 State, recognized as having probative value,
13 I think the same applies here because we --
14 inferentially you're going back to the loss of
15 someone and does that affect a human being? I
16 think that goes more -- that is where it begins
17 to get into -- if that area is improper, and
18 the courts have held it to be improper, then I
19 think that there is a greater likelihood of
20 that being evoked from that line of testimony
21 than it is the issue that you're dealing with,
22 because there are other ways of dealing with
23 that. That's the reason that I am ruling, that
24 I sustained the objection.

25 It's an interesting point. We'll see

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1 where it goes. Thank you.

2 MR. BLOOM: Thank you for your
3 consideration.

4 THE COURT: Thank you so much, Mr.
5 Bloom, and thank you, Solicitor. Now we're
6 ready for our jury. Let's bring them in.

7 MR. BLOOM: And I could note that
8 all counsel are present, Your Honor.

9 MR. CARROLL: I had to park in
10 North Charleston.

11 THE COURT: My friend, I understand
12 the war out there with parking. Thank you,
13 sir. It's good to see you, sir.

14 (JURY IN @ 9:44 A.M.)

15 THE COURT: Thank you very much,
16 Ladies and Gentlemen. I hope that you had a
17 good evening. We are ready -- and I told the
18 clerk this morning I -- sometimes the
19 temptation of those doughnuts exceeds my
20 ability to turn away from them, I must confess.
21 I hope that we haven't picked on anybody's diet
22 or put you in a bad state, but I hope that they
23 are at least some refreshment for you in
24 starting the day. We are not trying to create
25 bad habits for people, but hope that you ---

1 FOREMAN: We enjoy that. It's
2 like the highlight of our mornings.

3 THE COURT: Good, thank you. Glad
4 to know that it is okay.

5 FOREMAN: Thank you.

6 THE COURT: Before we start, I need
7 to inquire as we have each morning if each of
8 you have at all times since we were last
9 together have honored the court's instruction
10 and specifically have not talked with anyone,
11 permitted anyone to talk with you, you have not
12 read anything about the case, you have not
13 watched news programs, and that you have in
14 every respect complied with the court's
15 instruction. If you can make that commitment,
16 say "I do."

17 (AFFIRMATIVE RESPONSE FROM ALL JURORS)

18 THE COURT: Is there any member of
19 the family that cannot make it? (No verbal
20 response). Thank you. Are you ready to
21 continue, Mr. Bloom?

22 MR. BLOOM: Yes, Your Honor. Mary
23 Ellen Rankin.

24 (WITNESS TAKES STAND)

25 MR. BLOOM: Your Honor, may we

1 approach?

2 (OFF RECORD BENCH CONFERENCE)

3 THE COURT: Ladies and Gentlemen,
4 there is a matter that I need to take up out of
5 your presence. We will be with you very
6 shortly. Please go to your jury room.

7 (JURY OUT @ 9:48 A.M.)

8 THE COURT: Mr. Pennington, we need
9 your input if you can without divulging
10 attorney-client privilege.

11 MR. BLOOM: If Ms. Rankin can step
12 down and if Mr. Pennington can help with -- can
13 we clarify for the record what ---

14 THE COURT: Yes. We have had a
15 sidebar concerning this witness and there is
16 apparently a conflict with the public
17 defender's office in this case. The concern
18 was that this witness may have some knowledge
19 of some issue that created a conflict and we
20 didn't want to violate that in any respect.

21 MR. BLOOM: I would note for the
22 record, as I said at the sidebar, all that Ms.
23 Rankin is going to testify to is her
24 representation of Mr. Dickerson and the
25 knowledge that she had of that in 1992 in

1 juvenile matters, which are already in the
2 record in front of the jury.

3 THE COURT: Okay.

4 (SIDEBAR, COUNSEL WITH PUBLIC DEFENDER)

5 MR. BLOOM: Your Honor, I would
6 represent that Mr. Ashley Pennington, the chief
7 public defender, has conferred with Ms. Rankin
8 and she had no knowledge of the conflict in
9 this case, the March 2006 case. She worked
10 exclusively in Family Court with juveniles.

11 THE COURT: Ms. Rankin, do you want
12 to come back?

13 SOLICITOR WILSON: Mr. Pennington
14 say that he knows of no conflict that ---

15 THE COURT: And he knows the
16 conflict -- I am not requiring that you
17 disclose that but you're familiar with it and
18 you're confident that she has no knowledge of
19 that?

20 ASHLEY PENNINGTON: She has no
21 information, so she could not tell you what the
22 conflict was or how it would have any impact on
23 this case.

24 THE COURT: Thank you, Mr.
25 Pennington. I appreciate your assistance, sir.

1 MR. BLOOM: I thank the Solicitor
2 for bringing that to our attention.

3 THE COURT: Bring our jury back,
4 please. Thank you.

5 (JURY IN @ 9:51 A.M.)

6 THE COURT: Thank you very much,
7 Ladies and Gentlemen. Ms. Rankin, you may
8 resume the stand.

9 (WITNESS TAKES STAND)

10 MARY ELLEN RANKIN, being duly sworn to
11 tell the truth, the whole truth and nothing but
12 the truth, testified, as follows:

13 DIRECT EXAMINATION

14 BY MR. BLOOM:

15 Q. Where are you employed?

16 A. With the Charleston County Public
17 Defenders Office.

18 Q. What is your job there?

19 A. I am an attorney, a staff attorney in
20 Family Court representing juveniles.

21 Q. In 1992, did you represent William
22 Dickerson, Jr.?

23 A. Yes, I did.

24 Q. On what charge?

25 A. On the charge of ungovernable, filed by

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1 his mother.

2 Q. That was a petition that his mother filed?

3 A. Yes.

4 Q. If I could back up a little bit, did he
5 have a case with the Public Defender's office
6 right prior to the ungovernable charge?

7 A. The year before that he had been placed on
8 probation for possession of a stolen motor
9 vehicle. He had successfully completed a term
10 of probation for that in February of 1992, then
11 in March of 1992 his mother filed an
12 ungovernable charge.

13 Q. So one month after he completed that, his
14 mother filed the ungovernable charge?

15 A. Exactly.

16 Q. Did he complete his probation
17 satisfactorily for that prior charge, the
18 possession of the stolen motor vehicle?

19 A. He did successfully complete that. That
20 included paying financial restitution to the
21 victim. He actually had a job and -- he would
22 have been fourteen when he was placed on that
23 probation, he was fifteen when I represented
24 him. He had had a job himself and paid
25 financial restitution to the victim from money

1 he earned.

2 Q. All right. Next then let's move to the
3 ungovernable charge. What did the judge
4 initially order in that case regarding an
5 evaluation of William, at the age of fourteen?

6 A. He was fifteen by then.

7 Q. All right. Thank you.

8 A. The judge ordered that he meet with a
9 psychologist here in the community, who worked
10 in Charleston at DJJ, the Department of
11 Juvenile Justice. It's the probation office,
12 basically, and they do intake on juveniles who
13 are charges. They have a psychologist who
14 works here in Charleston and the judge had
15 ordered that his mother take him to meet with
16 the psychologist in Charleston, to have a
17 psychological evaluation.

18 Q. Is that fairly routine in Family Court, to
19 have juveniles to go for that type of
20 evaluation?

21 A. Yes, particularly when the charge is
22 coming from the family.

23 Q. Did his mother take him for that community
24 evaluation?

25 A. She did not.

1 Q. With a fifteen-year-old, is it routine
2 that a parent would -- or is it expected that
3 the parent would get the child there?

4 A. That is part of the judge's Order.

5 Q. She was the one that filed the charges but
6 she didn't get him there for the evaluation?

7 A. Right.

8 Q. What else did you note about his mother
9 during your representation in terms of
10 appearing for court dates on the charges that
11 she had filed against him?

12 A. In reviewing the file there were at least
13 two occasions when she just completely did not
14 show up for scheduled court hearings. In
15 Family Court we are not allowed to have a
16 hearing without a parent or guardian present.
17 So on at least two occasions, even though she
18 had been given notice of court, she failed to
19 appear. Finally the judge had to appoint what
20 is called a guardian *ad litem* to ---

21 Q. If you could explain that a little bit,
22 what that is.

23 A. It is a court-appointed guardian, they
24 typically do it *pro bono*, and they are
25 appointed to sort of stand in the shoes of the

1 parents if a parent is not present. That way
2 if there is a guardian *ad litem* is appointed,
3 we can at least have a hearing for the
4 juvenile. Obviously the juvenile can't go home
5 with a guardian *ad litem* but they can sort of
6 stand in for the parent if the parent is not
7 coming to court.

8 Q. And were you making phone calls to the
9 home to try to find out why his mother was not
10 coming to court on the charge that she had
11 filed?

12 A. Yes, I was.

13 Q. Were you ever able to get a satisfactory
14 response as to why she wasn't coming to court?

15 A. No, I wasn't.

16 Q. Now, did the -- did that -- what are some
17 of the things contained in that 1992 evaluation
18 report about William Dickerson, Jr.?

19 A. There is a social history from a social
20 worker and then there is a psychological
21 evaluation done by the psychologist.

22 In William's case, what happened because
23 his mother did not take him to the appointment
24 with the psychologist in the community, the
25 judge later ordered that he had to go to

1 Columbia, to the Department of Juvenile
2 Justice, which is basically a juvenile prison,
3 that he had to go up there for forty-five days
4 to have an evaluation since his mother hadn't
5 taken him locally to be evaluated by the
6 psychologist, which would have been an
7 appointment of two or three hours. Instead he
8 got sent off to Columbia to DJJ for forty-five
9 days to have an evaluation there while he was
10 locked up.

11 Q. What are some of the items that you
12 thought of significance, in your role as his
13 attorney, that were in the evaluation that went
14 to the court?

15 BRUCE DURANT: Your Honor, may we
16 approach?

17 THE COURT: Yes, sir.

18 (OFF RECORD BENCH CONFERENCE)

19 DIRECT EXAMINATION CONTINUED

20 BY MR. BLOOM:

21 Q. Without going into the specific report at
22 this time, generally was it a positive
23 evaluation of William?

24 A. It was a very positive evaluation. His
25 behavior while he was there was excellent.

1 Q. All right. Next let me ask you, at the
2 final disposition hearing, what happened? The
3 final court hearing where the judge ---

4 A. Right, after he returned from the
5 evaluation center he would be returned to
6 court, basically for disposition or sentencing.

7

8 He was placed on probation, there was some
9 family counseling ordering. Because things at
10 home were so strained and stressful and there
11 was a new stepfather -- the mother had just
12 gotten remarried, there was a new stepfather in
13 the home and things were very, very stressful,
14 very strained at home for William. Because of
15 that, the recommendation was that he -- while
16 he was on probation -- go to a Marine
17 Institute, to a residential sort of like a
18 wilderness camp. He ended up going, I believe,
19 to Beaufort Marine Institute and was there --
20 usually it's four to six months, it's sort of a
21 wilderness camp experience where there is
22 counseling, they build their self-esteem, they
23 learn self-discipline. He went there while he
24 was on probation. Did very well there.

25 Q. And prior to that -- well, I neglected to

1 ask you one question. Was his mother in that
2 petition or in that proceeding also making
3 allegations that William was a runaway?

4 A. Yes, that was part of her ungovernable
5 petition, that he was ---

6 Q. What did you learn about that, her conduct
7 in relation to that?

8 A. What I learned was that in essence she was
9 putting him out of the house, telling him to
10 leave, then he would go and stay with friends
11 or relatives, wherever he could find to stay,
12 and then she would call that running away from
13 her home.

14 Q. Okay. This was when he was fifteen years
15 old?

16 A. Yes.

17 Q. Lastly, at the final court hearing what
18 other actions did Judge Creech, I believe, the
19 Family Court judge do in regards to this
20 manner?

21 A. Judge Creech, unusually I guess I would
22 say, lectured his mother. Typically the judge
23 in Family Court is going to lecture the
24 juvenile about what they need to do and change
25 and do better. In this case, Judge Creech

1 actually lectured his mother about her parental
2 responsibilities. He asked her what she cared
3 about her child's development and what she was
4 willing to do for her child.

5 Q. That was unusual, to have a Family Court
6 judge lecture the parent?

7 A. Yes, particularly when the charge is
8 governable, it would be. They usually lecture
9 the child and not the parent.

10 MR. BLOOM: Thank you very much,
11 ma'am. Please answer any questions that the
12 Solicitor might have.

13 THE COURT: Cross examine?

14 CROSS EXAMINATION

15 BY BRUCE DURANT:

16 Q. You, of course, represent and have
17 represented a lot of juveniles; is that
18 correct?

19 A. Yes, I have.

20 Q. And how long have you been doing that

21 A. Seventeen years.

22 Q. During that seventeen years you've
23 represented a lot of kids who've come from bad
24 backgrounds?

25 A. Yes, I have.

1 Q. In fact, most of them?

2 A. I wouldn't say most but I would say many.

3 Q. And many that have come from worse
4 backgrounds than William Dickerson?

5 A. I would say yes, that's true, because I
6 would have -- because I represented him
7 multiple times, you learn more and more about a
8 family. I only ---

9 Q. Did you represent ---

10 THE COURT: Hold on, Mr. Durant, let
11 me finish the question.

12 THE WITNESS: I probably had the
13 opportunity to learn as much about -- such as
14 whether his mother may have had any substance
15 abuse problems. Sorry, that didn't -- (pause).

16 BRUCE DURANT: Let me know when
17 you've finished.

18 THE WITNESS: I didn't have that
19 much contact with his mother since she wasn't
20 appearing.

21 BRUCE DURANT: Okay.

22 CROSS EXAMINATION CONTINUED

23 BY BRUCE DURANT:

24 Q. My point is that you've represented kids
25 in Family Court that have come from much worse

1 backgrounds than William Dickerson; correct?

2 A. I have certainly represented kids who ---

3 Q. Kids who have been physically abused?

4 A. Yes.

5 Q. Kids who have been sexually abused?

6 A. Certainly, but what I -- in William's

7 case, I didn't actually ---

8 THE COURT: Ms. Rankin, I am going
9 to ask you to just listen to the question and
10 answer the question. Then if it needs
11 explanation, you may do so but just answer the
12 questions.

13 THE WITNESS: Okay.

14 CROSS EXAMINATION CONTINUED

15 BY BRUCE DURANT:

16 Q. Kids that didn't have mothers?

17 A. Occasionally.

18 Q. Kids with bad mothers?

19 A. Yeah.

20 Q. How many of them grew up to commit torture
21 and murder?

22 MR. BLOOM: Judge, I am going to
23 object. We're getting very far afield and I am
24 going to object on relevance.

25 THE COURT: I will allow the

1 question, the question asked, and that's as far
2 as it is going to go.

3 BRUCE DURANT: That's as far as I
4 was going to go.

5 THE WITNESS: What was the
6 question?

7 CROSS EXAMINATION CONTINUED

8 BY BRUCE DURANT:

9 Q. How many of those children grew up to
10 commit torture and murder?

11 A. I actually don't know.

12 Q. Can you name one?

13 MR. BLOOM: Objection.

14 THE COURT: Sustained.

15 BRUCE DURANT: Thank you.

16 THE COURT: Redirect?

17 MR. BLOOM: Just one question.

18 REDIRECT EXAMINATION

19 BY MR. BLOOM:

20 Q. Ms. Rankin, how much contact did you have
21 with his mother or how much investigation of
22 his mother's background did you have?

23 A. Very little. Most of my contact was with
24 William.

25 Q. And that was because she didn't come to

1 court or ---

2 A. That's right.

3 Q. --- return your calls

4 A. Right.

5 MR. BLOOM: Thank you.

6 THE COURT: Recross?

7 BRUCE DURANT: No, sir, Your
8 Honor.

9 THE COURT: Ms. Rankin, you may come
10 down. Do you wish the witness to be excused?

11 MR. BLOOM: Please, Your Honor.

12 THE COURT: Any objection?

13 BRUCE DURANT: No, sir.

14 THE COURT: You are also free to
15 leave, Ms. Rankin.

16 (WITNESS STEPS DOWN)

17 THE COURT: Call your next ---

18 MR. BLOOM: Marjorie Hammock.

19 (WITNESS TAKES STAND)

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

23 DIRECT EXAMINATION

24 BY MR. BLOOM:

25 Q. Good morning, Ms. Hammock.

1 A. Good morning.

2 Q. Can you please tell the jury what is your
3 profession, ma'am?

4 A. I am a social worker.

5 Q. Can you briefly explain or summarize what
6 the field of social work is?

7 A. A clinical social worker is a mental
8 health professional who operates at a master
9 level in terms of their training, their
10 education, their experience. We are also
11 educated in personality development, human
12 development behavior and the interaction of the
13 individual with the family in a social
14 environment.

15 We conduct interviews, we do assessments,
16 we do intervention and treat.

17 Q. All right. You often have to testify in
18 courts, whether courts like this, Family Courts
19 or other proceedings to give your report,
20 evaluation and assessment?

21 A. Yes.

22 Q. How many times have you testified in court
23 as an expert in the field of social work?

24 A. Fourteen in capital murders.

25 Q. And other cases, as well?

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1 A. Other kinds of cases, (affirmative nod).

2 Protective, Family Court.

3 Q. All right. Now, what is your training and
4 background in the field of social work?

5 A. I have a master's degree in social work,
6 I have been practicing for about fifty years.
7 I've been involved in child protective services
8 for six years. I've spent fifteen years as the
9 director of social works for the Department of
10 Corrections. I've also worked in private
11 psychiatric facilities doing assessment and
12 intervention and treatment.

13 Q. And where do you currently teach in the
14 field of social work?

15 A. I currently teach at Benedict College in
16 Columbia, South Carolina. Ten years in the
17 social work department.

18 Q. Are there particular honors or awards that
19 you have had in your field?

20 A. I've received educational awards from the
21 University of South Carolina, the Ernest
22 Justice Award for Parole Services, and I've
23 also recently received a Pioneers Award from
24 the National Association of Social Workers.

25 Q. Is there anything else in your background.

1 I know it's difficult because I am asking you
2 to brag but is there anything else about your
3 background and training ---

4 A. I have been appointed by the Governor to
5 sit on the Board of Social Work Examiners. I
6 was appointed for a six-year period and
7 continue to serve but have not been appointed.

8 Q. All right. You said Board of Examiners?

9 A. Board of Social Worker Examiners. That's
10 the licensing effort here in South Carolina.

11 Q. All right. Social workers have to be
12 licensed?

13 A. That's right and I'm licensed at the
14 independent level in clinical practice.

15 MR. BLOOM: Thank you. At this
16 time, Your Honor, I would move to have Ms.
17 Hammock qualified as an expert in the field of
18 social work.

19 THE COURT: Do you care to examine
20 her as to her qualifications?

21 BRUCE DURANT: No, sir, she is
22 qualified.

23 THE COURT: She will be permitted to
24 render opinions in that area.

25 MR. BLOOM: All right.

1 DIRECT EXAMINATION CONTINUED

2 BY MR. BLOOM:

3 Q. Did I ask you to look at William
4 Dickerson's background, his history and how he
5 grew up, all those kinds of issues that you
6 evaluate?

7 A. Yes, you did.

8 Q. And did I ask you ahead of time what kind
9 of opinions or what findings that you have
10 made?

11 A. Yes. Generally speaking, I found that
12 this was a young man whose life began and has
13 continued to be one of abuse and neglect.

14 He is ignored and rejected by his mother.

15 She herself had several limitations in
16 terms of being in an abusive relationship with
17 William's father.

18 He, in fact, lived with her in extreme
19 poverty. They had very few resources. So,
20 again, life was one of considerable challenges.

21 In addition to which she had, early on,
22 considerable resentment about William. She
23 said that he was useless, that he was a bad
24 influence and that he would not do well.

25 Q. Was this from a young age?

1 A. (Affirmative nod), from a young age.

2 Q. This was long before he got into trouble?

3 A. Exactly. He was told, from relatives and
4 friends, early on that -- she was very negative
5 in her views, largely because he represents his
6 father to her.

7 Q. All right. Now, we're going to go through
8 -- those were kind of your general findings and
9 conclusions?

10 A. Yes.

11 Q. I ask you to look through the records and
12 tell me anything that you found.

13 A. Continuing in that vein, his mother was in
14 an abusive relationship and unable -- she was
15 quite young when he was born.

16 William also was premature and while he
17 leaves the hospital and is in reportedly good
18 shape, there are demands on the mother to
19 provide for his care; which was very difficult
20 for her to do.

21 He continued in his growth cycle to need
22 the support of others and family because she
23 simply is not able to provide care for him.

24 Q. All right. Again, these are kind of your
25 general findings and conclusions which we are

1 going to go through in some detail.

2 A. (Affirmative nod).

3 Q. If you will, briefly summarize for the
4 jury how you went about finding this
5 information, generally what records that you
6 looked at, what types of interviews that you
7 did, things of that nature. If you could, just
8 summarize that for them.

9 A. I interviewed members of the family.

10 I interviewed his mother.

11 I interviewed two maternal aunts and his
12 grandmother.

13 I spoke with a gentleman who lived with
14 the family and who is the father of William's
15 half-brother.

16 I also reviewed school records, medical
17 records, psychiatric records and also some of
18 the juvenile records and gleaned out of those a
19 picture of what his life looked like.

20 The family members did in fact report
21 constant abuse and a very negative posture on
22 the part of the mother towards William. He
23 often sought refuge, particularly with his
24 grandmother and other family members.

25 There was physical abuse, again, according

1 to those persons, those members of his family
2 who said that she would physically strike him
3 on a repeated basis.

4 There were also reports from some of the
5 family members that he was treated very
6 differently from his younger brother and that
7 there was some resentment on his part because
8 he did not understand why he always received
9 the brunt of his mother's attention, unlike
10 that of his brother.

11 Q. Let me start in some detail, then.
12 Generally what did you find from the birth
13 records and some of the early medical records,
14 early history on William?

15 A. As I indicated, he was born prematurely.
16 Three pounds. Reportedly there had been
17 considerable abuse on the part of William's
18 father against the mother the pregnancy and
19 that was in fact, according to some family
20 members, perhaps the reason for him being
21 premature, because she was in fact physically
22 harmed.

23 Q. Why should we care about that? Why should
24 we care that William, Senior, used to beat up
25 William's mother and he was born prematurely?

1 Why does that matter?

2 A. Well, it could have a very damaging
3 effects on his overall physical development.

4 This is not reported in any records but it
5 actually can happen. It also impacts
6 negatively on the mother in terms of her
7 relationship to this child, unfortunately.

8 Q. What else did you find, if anything, from
9 those early medical records, birth records and
10 early history?

11 A. There is one real, just one real
12 significant report in terms of a three-month
13 physical checkup where apparently he's in okay
14 shape but they have very little detail on the
15 nature of his development. Some of the other
16 records indicate that his mother is unable to
17 give the developmental history ---

18 Q. When you say 'developmental history', what
19 are ---

20 A. We're talking about when did he first hold
21 up his head, when did he first sit up, when was
22 he able to crawl, when did he first eat solid
23 foods.

24 Q. Why is that significant?

25 A. It does impact on the overall physical and

1 emotional development of a child. She was not
2 able to give the details other than the fact
3 that she said that when he returned from the
4 hospital, when he came from the hospital at the
5 age of -- he stayed in the hospital for an
6 extra two months, so he was about five months
7 old. She said that she gave him solid food and
8 he did fine. So we can't -- so there is some
9 concern in terms of her ability and willingness
10 to care for this child.

11 Q. Does lack of the mother being able to give
12 the "firsts" that every baby does, that lack of
13 attention, can that affect a person in terms of
14 their personality development, their ---

15 A. It can.

16 Q. --- brain development, their overall
17 growth?

18 A. It can impact negatively in terms of,
19 again, being attuned to a young child's needs
20 as they are growing up, being able to nurture
21 and support all the physical and the emotional
22 and psychological development landmarks that
23 are occurring as he is growing up. It appears
24 that these needs simply were not being met.

25 Q. All right. Now, you also mentioned

1 William, Senior's, violence against the mother.

2 A. (Affirmative nod).

3 Q. What did you learn generally, if you could
4 summarize about William Senior's history and
5 where he ultimately ended up?

6 A. This was -- evidentially the mother was
7 eighteen and the father was nineteen when they
8 got together and William was born shortly
9 thereafter. They were married for a very short
10 period of time and then he goes off to prison,
11 first for assault and battery and then for
12 armed robbery.

13 Q. You are talking about Senior?

14 A. Yes. Then he is released from prison at a
15 later age, so -- so all of William Junior's
16 time, his father is incarcerated in his young
17 years. But the father does get out for a very
18 short period of time, then commits a homicide
19 and is sentenced to life in prison. Again,
20 there is that pattern there.

21 Certainly the family members do detail
22 extensive violence against the mother by the
23 father even at that point, that short period
24 later on when he was actually released from
25 prison on his first charge and comes home. He

1 abuses the mother again.

2 Q. Talking about William Senior?

3 A. Yes, the senior.

4 Q. All right. Do the records reveal that
5 William Senior was in the home for a period of
6 time while William Junior was still an infant,
7 that this violence was going on at that time?

8 A. Yes.

9 Q. Why should we care about that? He's just
10 an infant at that point, why should we care?

11 A. Well, we can only assume that there
12 probably is some neglect. The mother is not
13 able to care for him if she is being abused.
14 She certainly is not feeling -- it would
15 indicate that she is not feeling very good
16 about this child whose father is very abusive.

17 Q. Is violence in the home while an infant is
18 there, is that healthy for an infant?

19 A. No. It can often result in low self-
20 esteem, poor impulse control, all kinds of
21 things can evolve out of it. Even at a young
22 age, witnessing and being a part of violence.
23 Then neglect occurs because the parental figure
24 is unable to care for the child in the manner
25 that child needs, particularly a young child.

1 Q. Let's move away from William Senior and go
2 back to William Junior now. Did you find
3 anything in the DHEC record, South Carolina
4 Department of Health & Environmental Control,
5 regarding lead levels in the home that William
6 was raised in?

7 A. He in fact -- over a period of four or
8 five years, William -- as did his brother --
9 were in an environment where the lead levels
10 were extremely high, according to DHEC's
11 records. Armon, the younger brother, was
12 tested regularly, with abnormally high lead
13 levels. William is only tested once, and
14 that's later on in the period; however, William
15 is in this home where -- and evidentially it
16 was quite frequent in parts of this town.
17 Again, there were repeated, uh, citations in
18 terms of the physical home and the mother is
19 asked to make sure that they are in safer
20 environment so that that doesn't happen.

21 Q. Why should we care if children are exposed
22 to high levels of lead or if they eat paint
23 chips, old lead paint chips, that are peeling
24 off doors or windows? Why should we care about
25 that?

1 A. Lead levels, high level leads and children
2 eating actual lead have a real hazardous effect
3 on their development, both their emotional and
4 physical development. It can cause brain
5 damage and it can cause organic impairment.
6 That's in the literature.

7 Q. When you say organic ---

8 A. Brain development, brain functioning.
9 But, again, the mother was unable to place her
10 children in a lead-free environment. So,
11 again, it's an exposure that we don't know. We
12 know that it actually occurred but we don't
13 know the results of that.

14 Q. Did you see in the records that you
15 reviewed that William had an abnormal EKG?

16 A. There was an EKG report, actually in the
17 SCDC records if I recall correctly. Again,
18 it's one result in terms of that level.

19 Q. I kind of jumped a sentence but let me ask
20 you, why do small children eat lead paint
21 chips?

22 A. It is sweet. It said to even been almost
23 habitual, like getting hooked on chocolate or
24 something. If it is available, they'll pick it
25 up. It's not unusual where you have that kind

1 of housing to find that the children have been
2 impacted negatively.

3 Q. Can you say whether or not -- in your
4 field of expertise, whether or not that's why
5 agency such as DHEC and others over the years
6 have taken steps to try to reduce lead levels
7 in certain housing projects or homes, doing
8 inspections and things of that nature?

9 A. Yes.

10 Q. Looking next, let's go to, Ms. Hammock,
11 what you found out about William's mother,
12 Sandra Fokes. I know that you have given us a
13 general overview but I want to get a little
14 more specific now. First if you could kind of
15 summarize for me what you learned about his
16 mother, Sandra Fokes, during your evaluation
17 and investigation. Then we will go to
18 specifics.

19 A. Ms. Fokes was in fact not very cooperative
20 in the interview. She really did not want, as
21 she said, "to be bothered" by all of this. It
22 was embarrassing for her and she was concerned
23 that she would be painted in a negative light.

24 She told me, however, that her son had
25 been a problem all in his life and that she was

1 that -- he "interfered with her joy" and that
2 was her language. She included also Armon, the
3 brother, in that.

4 Q. This was from a young age that she felt
5 that way?

6 A. Yes. That it was a problem caring for
7 them, taking care of them. She tried to meet
8 their needs but she was unable to. Certainly
9 as he grew older he became more problematic,
10 from her point of view.

11 There doesn't seem to be any indication
12 that she was involved in his school, that she
13 had anything really physically to do with him.
14 The family however was involved in trying to
15 take care of William and encourage her to do
16 likewise. Again, she rejected their directives
17 in terms of caring for him.

18 Q. What did you find out about her,
19 generally, in terms of ---

20 A. Well, the records would reveal that there
21 was a lack of followup in terms of directives,
22 particularly during the period of time when he
23 starts to give her trouble by running away,
24 which usually was to his grandmother's house.

25 Q. His grandmother lived one or two doors

1 down?

2 A. (Affirmative nod), two doors down.

3 Q. Let's go back and, if I could, do this
4 somewhat chronologically. Did you find
5 generally that she was a victim of domestic
6 violence, that you've talked about a little
7 bit?

8 A. Yes. In fact, yes. That's documented by
9 family members, also by herself and there are a
10 couple of records that indicate that she had
11 called the police.

12 Q. On William Senior?

13 A. (Affirmative nod), on William Senior. The
14 police, I think on that first occasion, told
15 her that there was nothing that they could do
16 unless she filed a report and that was some
17 action that she attempted to take.

18 Q. All right. Did you find that after
19 William Senior was out of the household that
20 she began to repeat those types of patterns or
21 acts on William Junior?

22 A. Yeah, the -- the most compelling testimony
23 comes from a Mr. Fludd, who lived with her from
24 the time that William was two for about three
25 or four years. He indicated also that she was

1 quite negative to him, said negative things
2 even when he was a little boy and that that
3 continued ---

4 Q. What kinds of things would she say?

5 A. "You're no good, like your father."

6 "You're not going to turn out well."

7 Q. This was while he was little?

8 A. Right.

9 Q. Before he gets to his teenage years and
10 was involved in ---

11 A. The people that I interviewed, yes, they
12 said that she was very negative towards him
13 verbally and physically.

14 Q. Was Mr. Fludd Armon's father?

15 A. Armon's father, (affirmative nod).

16 Q. And he moved into the house?

17 A. He moved into the house. He said that
18 they were living in really deplorable
19 conditions, that there was no heat, that the
20 walls were very thin, that it was cold, that
21 there was a central stove, a very negative
22 environment. He had refurbished the interior
23 of the house while he lived there.

24 Q. Did he tell you what he could hear in the
25 walls?

1 A. He could hear the rats running up and down
2 the walls.

3 Q. Then Mr. Fludd moved in for a period of
4 time and refurbished the ---

5 A. (Affirmative nod), refurbished the house,
6 helped her get traditional furniture or food
7 and he said that he would -- and family members
8 said that he was a better father than any
9 father could have ever been. They said after
10 Armon was born that he moved out.

11 Q. Did ---

12 A. He talked about the fact that she was
13 abusive to William and very resentful.

14 Q. Did she try to intervene when she would
15 get overly physically with ---

16 A. He would often intervene. Yes.

17 Q. Where would his mother hit William? I
18 mean, are we just talking about spanking on the
19 bottom or ---

20 A. She was punch him in the head, according
21 to the reports; she would hit him with a belt
22 in his chest, and that reportedly is documented
23 in one of his health records; ---

24 Q. Just to skip ahead real quick, do the
25 William S. Hall records, which is our State

1 psychiatric hospital, do they contain a medical
2 report where there is medical evidence of
3 scarring on William's chest?

4 A. Yes, it is reported in those records.

5 Q. We'll get back to that but let me go back
6 now to -- did you learn whether or not this
7 type of acts of violence, for lack of a better
8 word, was that ever visited on her other child,
9 Armon?

10 A. Reportedly from the family, no, he did not
11 receive the kind of physical abuse or negative
12 comments from her as William did.

13 Q. What significance do you make of that, if
14 any, in your ---

15 A. That there was a difference in the
16 treatment and certainly that would be something
17 that impact negatively on William. Not only
18 was he ignored and neglected by his mother but
19 he did see his half-brother be treated better
20 than he was. He questions that in some of the
21 documentation in the medical records,
22 psychiatric records, why he was treated
23 differently. He asked family members about
24 that also.

25 Q. From your interviews and in going over the

1 records, were you able to come to a
2 determination as to why he was singled out in
3 terms of how he reminded his mother of William
4 Senior?

5 A. Yes. Well, again, that's what she says
6 and that's what other people that I interview
7 say, that he was -- that she was negative to
8 him because he reminded her of his father.

9 Q. In your interviews and in reviewing the
10 records, what did you learn about William's
11 mother in terms of the number of men that came
12 in and out of the household?

13 A. Again according to family members, and we
14 have already mentioned Mr. Fludd who lived
15 there for awhile, there were other men in her
16 life. The report was, again from family
17 members, that the mother had a preference for
18 the men over her son and would yield to their
19 needs but not to William's. So, again, her
20 attitude towards him was that he was secondary
21 in her life.

22 Q. Why should we care about that?

23 A. Again it's that rejection that causes a
24 great deal of trauma in a young child. They
25 are looking for love, affection, support. It

1 interferes with normal healthy development of
2 relationships with others and it makes for a
3 lack of trust in other people. Again, it can
4 be very harmful to have your primary care giver
5 to reject you and to prefer others.

6 Q. In your interviews, did you find that some
7 of Sandra's sisters and other family members
8 tried to intervene, to counsel her on how she
9 treated William?

10 A. Yes, they did in fact mention very
11 specifically that they tried to intervene.
12 When they would get together as a family, which
13 they did sometimes, they would try and point
14 out to her that he needed as much attention as
15 anyone else. As I said, he used some of those
16 family members as refuge, both his aunts and
17 his cousins, that's where he would go for a
18 little bit of safety and solace.

19 Q. Did you learn at one point in time whether
20 or not his mother used to throw objects at
21 William?

22 A. Yes. Family members have said that she
23 would pick up and hit him and throw things at
24 him. In one instance, I think at one of the
25 family get-together, she actually hit him on

1 the side of the head and bruised him.

2 Q. She hit him on the side of the head with a
3 set of keys?

4 A. Yes.

5 Q. Did he receive a scar from that?

6 A. Yes, he did.

7 Q. Can you imagine any instance where a
8 parent, in disciplining a child, would use a
9 set of keys ---

10 A. No.

11 Q. --- in a proper disciplinary action?

12 A. No.

13 Q. Did William Senior used to throw things at
14 Sandra?

15 A. He threw a pot at her and something else,
16 I don't recall.

17 Q. Beer cans?

18 A. A beer can, (affirmative nod). In fact,
19 she was bruised.

20 Q. Did there come a point in time where you,
21 through your investigation, learned of a
22 particularly significant incident where his
23 mother put William Junior out of the house
24 naked?

25 A. It is reported that he was told to remove

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1 -- they were involved in a confrontation ---

2 Q. Let me just -- how old was William at this
3 time?

4 A. This was when he was ten or eleven.

5 Q. Ten or eleven years of age?

6 A. Ten and a half, eleven years old.

7 Q. Please continue.

8 A. He is told to leave, he is told to get out
9 but then he is told that he has to remove his
10 clothing first. So he is out in the -- outside
11 in the neighborhood, trying to hide because
12 he's -- and she also called the police. Two
13 family members were there and reported about
14 that.

15 Q. Did you learn why she told him to take his
16 clothes off?

17 A. Because they were -- she had bought them,
18 they were "her" clothes.

19 Q. She had bought them for him?

20 A. Right, and they were her clothes.

21 Q. So she was punishing him by making him
22 strip naked?

23 A. Right.

24 Q. Was this -- do you know from your
25 investigation where they were living at this

1 time? Was it in a ---

2 A. It was in a development, a small develop-
3 ment.

4 Q. So putting him out the front door, where
5 he would be seen?

6 A. Yeah, he would be visible, visibly seen by
7 others when he was put out.

8 Q. What does that do to a child?

9 A. Well, it's humiliation. It again points
10 out the fact that he was not cared for enough
11 to be protected. It is kind of violent in
12 terms of his being exposed to everybody by his
13 primary care giver.

14 Q. Shortly after that period of time, was
15 William admitted to the Medical University of
16 South Carolina for psychiatric treatment?

17 A. Yes, sir. Again, reportedly he was
18 brought to MUSC, according to their records, by
19 his mother for running away, poor school
20 performance and oppositional behavior. He was
21 in the sixth grade.

22 He was diagnosed at that point as
23 suffering from a major depression.

24 The running away, by the way, was almost
25 always to his grandmother's house.

1 He reported at the time that he was
2 extremely unhappy and physically -- he felt
3 that he was in physical harm because she was
4 very aggressive when she at the house. He had
5 all the symptoms -- according to the hospital,
6 he had all the symptoms of depression.

7 Q. What was he diagnosed with at the Medical
8 University of South Carolina at age eleven,
9 sixth grade?

10 A. He was diagnosed with Major Depression
11 Axis I and his general functioning score was a
12 forty-five (45), which is pretty low.

13 Q. Can you explain what a general functioning
14 score is?

15 A. It is called GAP and it's a record of the
16 level of functioning, from zero to one hundred.

17 Q. Zero being really bad?

18 A. (Affirmative nod), bad and one hundred
19 being very good; functioning at a normal level,
20 meaning that one is able to take care of one's
21 self.

22 His comes out at forty-five at that point,
23 which is low. It reflected other things that
24 he was saying about himself: poor sleep,
25 limited appetite, difficulty in functioning,

1 his school grades are dropping at this point
2 also and he acknowledge that he felt hopeless
3 and helpless in his condition and had given
4 some idea to suicide.

5 Q. What is the doctor's observation and
6 description of William at age eleven when he
7 was ---

8 A. They talk about the fact that this is a
9 very, very sad young man who is -- who is --
10 who is down, whose voice is -- initially in the
11 conversation he was barely audible.

12 Q. And who -- when he is barely audible, who
13 is ---

14 A. His mother is ---

15 Q. --- in the room. I'm sorry, I don't want
16 to talk over you. I have a bad habit of that
17 and I will try to do better. I want to direct
18 your attention to the next question, if I may.
19 When he is barely audible with the doctor, who
20 is present in the room?

21 A. His mother is present during the initial
22 part of the evaluation. The doctor describes
23 him as being very -- as looking very sad,
24 sloped shoulders, gaze downward and he is
25 barely verbal.

1 The mother leaves and his demeanor
2 changed, but he does still acknowledge how
3 badly he feels about himself. He's able to
4 talk about the sadness and the fact that he
5 felt hopeless and had given some thought to
6 suicide.

7 Q. This is at age eleven?

8 A. (Affirmative nod), this is eleven.

9 Q. Why should we care about that, why is that
10 significant?

11 A. Again a very significant developmental
12 period. He's coming out of late to middle
13 childhood, getting ready to go into adolescence
14 and again he feels hopeless at a relatively
15 young age.

16 It's interesting that at this point the
17 mother in fact does confirm his depression, his
18 lack of appetite and his demeanor. Then says
19 that she suffers from all of those things also,
20 so she sees herself as being a victim.

21 Again, in terms of that MUSC, Medical
22 University of South Carolina, that report, uh,
23 the -- they also point out a picture of how sad
24 and hopeless this young man feels. They also
25 connect the fact that it appears that the --

1 that his description of being difficult only
2 seems to relate to the mother.

3 Q. Because the school records do not reflect
4 any of this conduct, behavior?

5 A. No, they don't, though it is said that at
6 this point his grades are beginning to drop and
7 he is having difficulty with attendance.

8 Q. Does the doctor's report at the Medical
9 University on this occasion note anything about
10 William using alcohol and drugs at this age?

11 A. As a matter of fact, it says here that
12 there is no indication of use.

13 Q. So he is not using any alcohol or drugs?

14 A. Not at this point.

15 Q. What does it say about his mother's drug
16 use?

17 A. That it appears there is alcohol and drug
18 use on the part of the mother.

19 Q. What specific drug?

20 A. Marijuana.

21 Q. After the Medical University evaluation --
22 well, let me ask you, why should we care, why
23 is it important that this eleven-year-old has a
24 diagnosis of depression?

25 A. Well, as I said it's a very -- it's an age

1 where children are very vulnerable. There are
2 lots of changes going on in their life. He is
3 still young and he has not developed the kind
4 of coping skills that he needs. This is
5 important because he is not getting any help or
6 support from the home. He feels very badly
7 about himself. He is -- he could be at-risk
8 for suicide.

9 Q. What significance is it to you, if any,
10 that his mental state and behavior is centered
11 and focused on the home, on his mother? What
12 does that tell you?

13 A. That tells me where the support and care
14 and intervention needs to be in terms of
15 helping him. The home has to be reinforced and
16 supported in order for him to feel better, to
17 get better, to be able to function.. That would
18 be the primary source of intervention.

19 Q. Did you see any evidence that was
20 happening, any type of that positive home
21 environment?

22 A. No, I did not.

23 Q. Let me move next from the Medical
24 University -- and let me make sure, I might not
25 have asked you this, what was the date that he

1 was admitted to the Medical University of South
2 Carolina?

3 A. The evaluation was actually done 5/12/88.

4 I assume that's the date of admission.

5 Q. All right. So May the 12th, 1988?

6 A. Correct.

7 Q. From that point, he is then admitted
8 subsequent to that to the State psychiatric
9 hospital?

10 A. That's correct.

11 Q. Is that unusual for an eleven-year-old, to
12 be admitted to the State psychiatric hospital?

13 A. There are a number of young people who are
14 in difficult, particularly with the diagnosis
15 of Major Depression and any evidence of
16 suicidal ideation or plan.

17 Q. So that was a safe course of treatment for
18 this young man?

19 A. Correct.

20 Q. What is the date of admission to the State
21 psychiatric hospital?

22 A. The same date. So he leaves MUSC,
23 probably the emergency room, but I'm not sure
24 about that, and goes directly to Hall. I'm
25 sorry, the admission to Hall was 5/26, it's a

1 couple of weeks later.

2 Q. A couple of weeks later?

3 A. (Affirmative nod).

4 Q. All right. Now, just generally, so that
5 we can orient you, are there two times that he
6 was admitted to the William S. Hall State
7 hospital?

8 A. Again, it's because of a suicide attempt.
9 He does leave MUSC and goes directly to Hall.
10 He is released because there is a finding ---

11 Q. Can I direct your attention?

12 A. Yes.

13 Q. I don't believe that I asked the question
14 well. The first admission date to MUSC, you
15 said, was May the 12th, 1988?

16 A. That's correct.

17 Q. Then two weeks later the admission date to
18 William S. Hall is what?

19 A. 5/26/88.

20 Q. While we are on dates, he was then
21 discharged when?

22 A. After thirty-five days he is discharged --
23 after twenty-eight days he is discharged.

24 Q. The date he was discharged is June 10th,
25 '88; is that correct?

1 A. I don't see that in my notes -- yes, it
2 is. I see it, June the 10th, 1988.

3 Q. Then four days later he is readmitted, on
4 June 14th of '88?

5 A. Yes.

6 Q. Discharged a week later, June 21st, '88?

7 A. Correct.

8 Q. So he was admitted twice over this time
9 period to the State psychiatric hospital,
10 juvenile ward?

11 A. (Affirmative nod).

12 Q. Is that fair to say?

13 A. Yes.

14 Q. All right. Let's talk about the first
15 admission, on May 26th of '88. What did you
16 find important about that, or significant?

17 A. He again was admitted with a diagnosis of
18 depression from MUSC, they made that diagnosis.
19 His first admission is because of a serious
20 suicidal threat.

21 Q. Suicidal threat?

22 A. (Affirmative nod).

23 Q. What was the basis of that suicidal threat
24 from this eleven-year-old boy?

25 A. He expressed very specific, he had a plan

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1 for killing himself and he ran away for the
2 tenth time according to his grandmother and
3 aunt.

4 Q. What was the specific plan that he'd told
5 the doctor he ---

6 A. He was sitting on -- well, there were two.
7 The first one, he was sitting on a window sill
8 and, uh, he -- he'd been punished and he didn't
9 know why he was punished. He was sitting on a
10 window sill and he indicated that he was going
11 to jump and hurt himself.

12 Q. And when he runs away, what does the
13 doctor reports that he runs away to?

14 A. Again he runs away usually to his
15 grandmother house, it was considered a safe
16 house.

17 Q. That was a safe house for him?

18 A. Yes. His mother does note in that report
19 that outside the home he has reasonable
20 behavior and that this concerns her, that he
21 does not have reasonable behavior in her home.

22 Q. All right. In fact, there's no reports of
23 William's misbehavior when he is at his grand-
24 mother's house?

25 A. No, there isn't.

1 Q. All right. Let me ask you next, what does
2 the doctor report as to William being withdrawn
3 or his mood, observation?

4 A. It was stated in the record that he was
5 withdrawn, very withdrawn at the point of the
6 interview. They quote William as stating that
7 he felt sad, discouraged and wishing that he
8 was dead. Again, as I mentioned before, he
9 also expressed thoughts of killing himself
10 because the home had been unbearable for him.

11 Q. We are still talking about an eleven-year-
12 old boy?

13 A. Yes.

14 Q. What else does the doctor note in his
15 report about the punishment at home?

16 A. The doctor does in fact cite that William
17 said that he has been physically punished by
18 his mother, that she sometimes uses a belt or
19 other kind of weapon, and on occasion she has
20 inflicted an injury on his chest that left a
21 mark.

22 Q. In the medical exam at the State hospital,
23 do they find medical evidence of ---

24 A. This is a quote, (reading): "There is an
25 area of tenderness over the left lower rib cage

1 and there is a mark on the chest from what
2 appears to be a belt." At this point he is
3 5'1" and weighs a hundred twenty-one pounds.
4 That's out of that record.

5 Q. If I could ask you next, does the doctor
6 again note an indication of any concern
7 regarding the mother's alcohol or marijuana
8 use?

9 A. Simply state again, it says that there was
10 information that she was using marijuana, that
11 William observed and evidentially reported to
12 him.

13 Q. Now, I believe that you told us that he
14 spends about twenty-eight days, then is he is
15 discharged to where on June 10th, 1988?

16 A. Again, according to the social worker's
17 report, and this is a part of some aspect fo
18 the discharge summary, she notes that outside
19 of the home that he has reasonable behavior.
20 She also notes that there is very little social
21 history. She attempts to get this information
22 from the mother, of course William is in the
23 facility in Columbia and the mother is in
24 Charleston.

25 She cites, (reading): "This is a single

1 mother who has limited education and economic
2 support and is overwhelmed by lack of parenting
3 abilities."

4 Q. Why should we care about all that?

5 A. Again it is simply illustrating the fact
6 that there is real ambivalent on the part of
7 -- his mom has real difficulty committing
8 herself to be able to care for this child, to
9 take care, to actually be a part of his
10 support. So, again, he's not getting what he
11 needs to fully develop.

12 The other thing that is very clear in this
13 record is that William should be placed outside
14 the home. That comes out by the social worker,
15 as well as the overall psychiatric report.
16 Again, there are no difficulties at school,
17 although he is not doing well and is truant,
18 but there's no negative behavior at school.

19 Q. Is that unusual for a child where there is
20 some "thing" going on at home, not doing well
21 at school?

22 A. Often if there is difficult it expands to
23 the entire environment. You'll see acting out
24 at home, acting out at school, acting out in
25 the community.

1 Q. And that is typical ---

2 A. That's been noted in several ways, that
3 the home appears at this point in his life the
4 only place that he's acting out.

5 Q. No behavior of acting out at school, in
6 the report?

7 A. No.

8 Q. None with the law?

9 A. No.

10 Q. None at grandmother's house?

11 A. No.

12 Q. Only at Sandra Fokes' home?

13 A. That's correct.

14 Q. What does that tell you as an expert in
15 your field?

16 A. That that is the source of the difficulty
17 of the development of this man and this is
18 where the intervention or help needs to be.

19 Q. All right. Let me ask you next, he is
20 then discharged twenty-eight days later -- and
21 I thank you for bringing those other facts to
22 our attention. Who is he discharged to on June
23 10th, 1988?

24 A. He is discharged back to his mother but
25 actually the recommendation in there is that he

1 not be placed in the home, but in the meantime
2 he is discharged to an aunt acting on behalf of
3 the mother and the Department of Social
4 Services was notified about the possibility of
5 abuse and neglect.

6 Q. Once he was discharged, within four days
7 he ---

8 A. He -- if I may?

9 Q. Yes, ma'am, I didn't mean to interrupt
10 you.

11 A. I guess it was the actual case worker who
12 attempts to call the mother at home but she
13 wasn't available, then that's when the aunt was
14 contacted and she agreed to pick up William.
15 Again, that's in the record. So technically
16 the child was discharged to the mother but the
17 aunt is there.

18 Q. The aunt comes from Charleston to pick him
19 up and take him back to Charleston, is that
20 right?

21 A. I'm not sure if she came from Charleston.

22 Q. Okay, thank you for correcting me. Then
23 within four days, what happens next?

24 A. He returns.

25 Q. Again with suicidal threats?

1 A. That's right.

2 Q. All right.

3 A. This time there was the use of -- there
4 was the potential use of a knife that was
5 involved.

6 Q. What did William threaten to do with the
7 knife?

8 A. He was going to stab himself and maybe
9 hurt his mother.

10 Q. All right. Now, on the second admission,
11 what -- well, let me ask you this. What do you
12 find important or significant at all in that,
13 where he spent twenty-eight days at the State
14 psychiatric hospital, juvenile ward, and within
15 four days of being in his mother's home he is
16 back again?

17 A. Again, the transition back to the home,
18 the behavior occurred again; that it was not a
19 healthy place for him to perform and to
20 operate; that he's not able to sustain himself
21 in that setting, that it's a constant challenge
22 there; and that he was really desperate to get
23 away from the mother who is destructive.
24 Again, the State hospital recommended that he
25 not be returned to the home.

1 Q. What does William tell the doctor, at age
2 eleven, about going back to the State hospital?

3 A. I don't remember the words. Again, that
4 it was going to be difficult for him to
5 function in that environment.

6 Q. All right.

7 A. And that he is not going to be able to
8 really function because he will be fighting
9 with her, and maybe even his peers, his
10 brother.

11 Q. What is the emergency room observation of
12 William on the second admission, four days
13 later?

14 A. Let me -- (reviewing notes), again it
15 reveals a picture of a young man who says that
16 things will not go well if he is placed with
17 her.

18 He is very upset when he comes back in and
19 he doesn't think that he will be able to
20 function in that environment.

21 He expressed concerns about his discharge
22 to his mother. He is saying that it just
23 wasn't able to happen.

24 Q. During both his stays at the State
25 psychiatric hospital, juvenile ward, both the

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1 first one and the second one, what is his
2 behavior like at the State hospital? Was it
3 anything like what was going on in the home
4 with his mother?

5 A. Apparently not. The records in the case
6 notes says, (reading): "Follows directions..."
7 -- that he was a good patient. They make note
8 again the record that the home situation
9 appears to be the only place where his behavior
10 is unacceptable.

11 Again, in this instance there were several
12 referrals to DSS. They, however, found that
13 there no reason for not placing him with his
14 mother.

15 Q. DSS did not intervene?

16 A. They did intervene but that was their
17 recommendation.

18 Q. What was the doctor's recommendation,
19 who'd spent twenty-eight days with William the
20 first time and who ---

21 A. The doctor said that the child would not
22 do well if he was placed with his mother, that
23 even if there was an emergency temporary
24 shelter -- there was an attempt to find a
25 foster care placement. There was some

1 recommendation to find a foster care placement.

2 It was indicated that his behavior did not at
3 that point -- and we're talking about at the
4 end of his treatment, during the discharge
5 planning -- need to be in a mental health
6 facility but he did additional care and
7 support.

8 The doctor also indicated that he might
9 need -- that he might continue to need
10 emergency shelter to deal with family problems.

11 Q. Did the doctor issue any warnings in his
12 report as to what happen if ---

13 A. The doctor said, (reading): "This child is
14 not likely to do well if placed with his mother
15 even in..." and so an emergency shelter is
16 recommended.

17 Q. Subsequent to that, is William then
18 admitted to Tara Hall?

19 A. Yes, he is on 7/13/88. William is still
20 eleven years old and he is admitted to Tara
21 Hall, which is a facility for young children.

22 Q. When was he admitted to Tara Hall?

23 THE COURT: Hold on just a second,
24 Mr. Bloom. At this point, let's take a break
25 and let the jury go to the jury room.

1 MR. BLOOM: Yes, sir.

2 THE COURT: Do not begin your
3 deliberations, don't discuss the case, we will
4 be with you in about ten to fifteen minutes.

5 (JURY OUT @ 10:59 A.M.)

6 THE COURT: Dr. Hammock, during this
7 break, please feel free to step down. I would
8 ask that you not have any conversation with any
9 of the attorneys, please, ma'am.

10 Anything from the defense before
11 recessing?

12 MR. BLOOM: Nothing, Your Honor.

13 THE COURT: Anything from the State
14 before recessing?

15 BRUCE DURANT: No, sir.

16 THE COURT: We will at-ease for
17 about ten minutes.

18 (BRIEF RECESS)

19 (DEFENDANT PRESENT)

20 THE COURT: Let the record reflect
21 that Mr. Dickerson is present. Are we ready to
22 continue, Mr. Bloom?

23 MR. BLOOM: Yes, sir, Your Honor.

24 THE COURT: State's ready?

25 SOLICITOR WILSON: Yes, sir.

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1 THE COURT: All right, let's bring
2 in our jury.

3 (JURY IN @ 11:25 A.M.)

4 THE COURT: Mr. Bloom, you may
5 continue your examination.

6 DIRECT EXAMINATION CONTINUED

7 BY MR. BLOOM:

8 Q. Let's next turn to the Tara Hall Home for
9 Boys records that you reviewed, when was he
10 admitted to Tara Hall?

11 A. He was admitted 7/13/88.

12 Q. That would be when he was still eleven
13 years old?

14 A. Right before he turned twelve.

15 Q. Shortly after these incidents that we've
16 talked about at MUSC and the State psychiatric
17 hospital?

18 A. Yes.

19 Q. Before we go into Tara Hall, when did he
20 graduate from there?

21 A. Graduated Tara Hall?

22 Q. Yes, ma'am.

23 A. 6/1/90. He was there for about two years.

24 Q. So he was almost fourteen, not quite, or a
25 little under fourteen when he graduated?

1 A. That's right.

2 Q. Now, how did he do generally at Tara Hall
3 after he was removed from his home?

4 A. The records indicate that it was an
5 extremely positive stay for him. The director
6 of the staff indicated that he did very well in
7 that environment. He was very positive, there
8 were not major disciplinary complaints or
9 write-ups. He was considered a nice kid,
10 according to the staff he got along with
11 everyone. He celebrated his twelfth and his
12 thirteenth birthdays there. He, again, had a
13 positive experience.

14 Q. Adjusted well there?

15 A. Yes, he did.

16 Q. No acting out?

17 A. No acting out.

18 Q. Now, there is one incident where he has a
19 weekend home visit from Tara Hall to his
20 mother's home?

21 A.. Yes. Almost at the end of his stay he had
22 a weekend visit with his mother. He ran away
23 and stayed out, according to his mother. When
24 he returned to Tara Hall, of course they
25 counseled him about that and the staff

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1 indicated that, again, it was indicative of the
2 fact that he could not function well in that
3 environment.

4 Q. In his mother's home?

5 A. That's correct.

6 Q. All right. For two years he does
7 exceptionally well at Tara Hall?

8 A. And according to the records that was the
9 only incident there at Tara Hall.

10 Q. All right. Now, upon his discharge from
11 Tara Hall he undergoes a psychological
12 evaluation.

13 A. May I make a correction in terms of ---

14 Q. Yes, ma'am.

15 A. There was also an incident at Tara where a
16 teacher reports that he became very verbally
17 disruptive in class. Again this was about two
18 weeks prior to his return home. The teacher
19 said, according to the records, that there had
20 never been an occasion -- he reported him as
21 having remained somewhat moody and quiet in the
22 class that day.

23 Q. That was about two weeks before he was
24 supposed to ---

25 A. --- be discharged.

1 Q. Thank you. What significance, if any, do
2 you find in that?

3 A. Again, returning home was a very negative
4 experience for him and that he saw that as
5 being another failure, to be able to function
6 adequately in that setting.

7 Q. Upon his discharge, if I can direct your
8 attention to the psychological summary at
9 discharge. The jury has already heard
10 testimony from Dr. Rivers, so I am not going to
11 go through that in great detail but what are
12 one of the things that you note in that regard
13 about William being returned home?

14 A. The doctor's notes indicate the statement
15 that this is an exceptional young man if he can
16 escape trouble, in talking about the
17 environment.

18 He also indicated that there were no signs
19 of negative behavior or inappropriateness, he
20 did well with the structure and the guidelines
21 that were given to him.

22 The doctor also reflected the fact that
23 William had talked about all of the negative
24 influences in his home and the negative
25 relationship with his mother but also he

1 environment was going to be a challenge to him
2 because there was so much violence, drug use,
3 drug sales, violence in the neighborhood.

4 Q. All right. Of course, this was a young
5 man who up to that point had avoided trouble
6 with the law or any of that type of behavior?

7 A. Yes.

8 Q. When you told us about some doctor's notes
9 that William would be an exceptional young man
10 if he could escape trouble when he returns
11 home, why is that important? Why should we
12 care about that?

13 A. Well, again, it's not a predication but it
14 certainly is an assessment of what can happen
15 to a young man like this who is vulnerable to
16 negative influences or who is lacking a lot of
17 social support and stability. One of the
18 things that all of these institutes and
19 relations have shown is that when there is a
20 stable, consistent environment that he does
21 well. When that stability is not there, then
22 he experiences failure and that is hard for him
23 to deal with.

24 Q. Let me next turn your attention to a
25 matter that the jury has heard some information

1 about and that is when he returns home at
2 fifteen years of age, in the ninth grade, his
3 mother files a Family Court petition for
4 ungovernable. If I could direct your attention
5 to the Department of Juvenile Justice report in
6 that regard. What did find significant or
7 important about that?

8 A. Again, it was after a very short period of
9 time. I think that during this period of time
10 that the mother had remarried and/or had
11 someone living in the home. So he simply
12 wasn't welcome there, so that's why that report
13 was filed. In effect, he was homeless.

14 Q. What does the DJJ report note about
15 William's relationship with his brother Armon
16 during that period of time?

17 A. That he was very protective of Armon.
18 Even though they came into conflict because
19 they were pitted against each other often, he
20 wanted to help him and he wanted to see that he
21 didn't get into trouble.

22 Q. What did the DJJ report, the Department of
23 Juvenile Justice report, what did it reflect
24 about William's behavior while he was in
25 basically juvenile jail?

1 A. Again he was responsible, respective of
2 the rules and regulations.

3 Q. How did they reflect his behavior?

4 A. That it was productive, that he respected
5 the law, that he went along with -- as a matter
6 of fact, it was in one of those places where he
7 actually received an award for good behavior.

8 Q. Can you tell me, after the Family Court
9 put him on probation and he went to the Marine
10 Institute, and the jury has heard about that,
11 what do the certifications show of his behavior
12 or achievement there, again at another
13 institution outside his home?

14 A. In this Marine Institute, which was
15 described before, that he had very positive
16 behavior, that he responded well to directions,
17 that he was able to succeed and received some
18 accommodations for his behavior.

19 Q. Did he receive the Rookie of the Month
20 Award?

21 A. Yes.

22 Q. Why should we care about some of that?
23 What does that tell us again about how William
24 acts when he is not in Sandra Fokes' home?

25 A. Again structure, the ability with positive

1 expectations that he will do well all result in
2 his positive behavior. That setting -- it's
3 replete in the record that in that structured
4 setting he did well.

5 Q. Lastly, in regard to the Family Court
6 proceeding what significant, if any, do you
7 attach to the fact that his mother filed a
8 petition, yet she fails to take him to the
9 evaluation, fails to show up for court, why
10 should we care about that?

11 A. Because, again, it shows her inability
12 over a period of time to provide him with the
13 consistency and support, an enabling act to
14 help him stay stable and develop positively.
15 She simply is not there. Even though she filed
16 the report, she doesn't follow through on the
17 directions.

18 Q. I just have some final questions for you,
19 Ms. Hammock. First off, if I can ask you what
20 your final conclusions or findings are in
21 regard to what you've told us from the
22 interviews of family members, the review of
23 records, the early medical records, the MUSC
24 records, the William S. Hall records, the Tara
25 Hall records, the Family Court matter, what

1 conclusions do you draw from all of that, from
2 William's history?

3 A. Well, the Defendant did in fact suffer
4 from severe childhood abuse and neglect. This
5 was a consistent pattern in his life. He never
6 had the parental support, the consistent
7 parental support from his mother that he
8 required. He was exposed to the violence of
9 the mother as well the beatings. Starting at a
10 young age, he was abused.

11 He also was intimidated and rejected by
12 his mother. His mother was simply ill equipped
13 to take care of him in an appropriate way. His
14 home life was really unstable.

15 He simply had very few places to go for
16 support, but the major failing was in his
17 primary care giver, his mother, so that his
18 social functions and those unresolved feelings
19 of rejection were just never felt.

20 He was loyal to those family members who
21 supported him and cared for him.

22 He tried but was unable to set goals from
23 himself, but without support was unable to do
24 so.

25 He never really learned or observed

1 positive communication, effective and emotional
2 communications from his mother.

3 He could not rely on his primary care
4 giver in being predictable in meeting his
5 needs. Therefore, there were some deficiencies
6 in his ability to cope.

7 Q. Why is that important, why should we care
8 about that?

9 A. It impacted on his response to crises, his
10 ability to deal with problems. It often leads
11 to -- this kind of abuse would lead to other
12 ways of 'problem solving', alcohol and drug
13 use. He had no sense of being able to continue
14 and feel good about himself, so there are --
15 there are some extreme deficiencies in his
16 ability to function.

17 Q. Is it any surprise then, in your opinion,
18 that in his teen years and later years he
19 begins to run into criminal activity, illegal
20 activity, drug activity? Is that any surprise
21 to you, given the fourteen-odd years that
22 you've summarized for ---

23 A. No, it's not. It often leads to the kinds
24 of behaviors that we have seen. It is not a
25 surprise.

1 Q. If you had been making a recommendation to
2 the Family Court or DSS during some of those
3 early interventions, what recommendation would
4 you have made regarding his removal from Sandra
5 Fokes' home?

6 A. Even prior to removal, my recommendation
7 would be that his family, his mother needed a
8 great deal of support, external support, from
9 the system to help her parent, to come with
10 grips with whether or not she really wanted to
11 care for this child.

12 Then if all else fails and there was a
13 definite recommendation initially for
14 counseling, outpatient kinds of activities.
15 Then, of course, placement, child protective
16 services placement in a setting where he could
17 receive the kind of support and direction that
18 he needed.

19 Q. Not to belabor a point but to summarize in
20 that regard, is there evidence there in the
21 records that once he was placed out of the home
22 at different periods, whether it was for forty-
23 five days, twenty-eight days, two years,
24 whatever, six months, did he thrive?

25 A. He did.

1 MR. BLOOM: Thank you. Please
2 answer any questions that the Solicitor may
3 have.

4 THE COURT: You may cross examine.

5 BRUCE DURANT: Thank you, Your
6 Honor.

7 MR. BLOOM: I apologize, I have one
8 last question. I apologize, Mr. Solicitor.

9 DIRECT EXAMINATION CONTINUED

10 BY MR. BLOOM:

11 Q. Did you make an attempt to get the DSS,
12 Department of Social Services, records on
13 William, particularly during the time frame of
14 when DSS placed him at Tara Hall and
15 afterwards?

16 A. Yes.

17 Q. What did you learn about whether or not
18 those records exist anymore?

19 A. They have been purged, I was told, and are
20 not available.

21 Q. You were told that by DSS?

22 A. Yes.

23 MR. BLOOM: Thank you. Please
24 answer any questions that the solicitor may
25 have.

1 CROSS EXAMINATION

2 BY BRUCE DURANT:

3 Q. Good morning, Ms. Hammock.

4 A. Good morning.

5 Q. Welcome to Charleston.

6 A. Thank you.

7 Q. I am going to have just a few questions
8 for you. I believe that you've testified that
9 some fourteen times in capital cases; is that
10 correct?

11 A. That's correct.

12 Q. On how many of those occasions did you
13 testify for the Defendant?

14 A. All of the times.

15 Q. Now, you've discussed a good bit about the
16 abuse that William suffered as a child; is that
17 correct?

18 A. Yes.

19 Q. To be sure, you didn't mention anything
20 about him having been sexually abused?

21 A. No.

22 Q. Did you find any evidence in any of the
23 records or from people that you've talked to
24 that he had been sexually abused in any manner?

25 A. No.

1 Q. Certainly you've testified concerning some
2 emotional abuse and some problems that he had
3 with his mother; is that correct?

4 A. Yes, it is.

5 Q. Most of this comes from family members and
6 the records, is that correct?

7 A. From family members and the records.

8 Q. And Ms. Fokes did not want to become
9 involved with you, is that correct?

10 A. No, she didn't even though I met with her
11 once.

12 Q. Now, in regards to the physical abuse,
13 that was by reports from family members; is
14 that correct?

15 A. Family members and Mr. Fludd, who was a
16 live-in friend.

17 Q. But there were no police reports regarding
18 that, is that correct?

19 A. No, there was not.

20 Q. Other than the one thing that you pointed
21 out in the William S. Hall record in June of
22 '90? I might be wrong on that date.

23 A. (No verbal response).

24 Q. This would be May 26th of '88?

25 A. (Affirmative nod), '88.

1 Q. I'm referring to the evaluation there and
2 what they noted was a mark on the chest from a
3 supposedly previous injury; is that correct?

4 A. And they also indicated that there was
5 tenderness.

6 Q. That was the sum total of the physical
7 findings that he suffered?

8 A. That was reported.

9 Q. Is that correct?

10 A. Um-humm.

11 Q. And to be clear, there is no evidence that
12 William ever suffered from lead poisoning, is
13 that correct?

14 A. There was one report that indicated that
15 there was a level there. It's towards the end
16 of all the reports.

17 Q. But well below the level that was of
18 concern to ---

19 A. My point was that he was in that
20 environment where it was reported that
21 typically had sufferers.

22 Q. But there is no evidence that he suffered
23 from lead poisoning?

24 A. He was not ever tested.

25 Q. He was tested once, right?

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1 A. Yes, that last time, the last period of
2 time of testing.

3 Q. And his level was low enough that it was
4 not a concern?

5 A. It was a concern but it was low.

6 Q. Armon was tested because his level was
7 high, is that correct?

8 A. Yes.

9 Q. So he continued to be tested?

10 A. (Affirmative nod), and they were in the
11 same environment as I pointed out.

12 Q. Right. But the point that I am making is
13 that maybe Armon was eating lead paint but
14 there's no evidence that he was.

15 A. There was exposure.

16 Q. Okay. Let's talk about that a little bit.
17 You say that he grew up in a poverty stricken
18 home. Correct?

19 A. Yes.

20 Q. Ms. Fokes was a single mom most of the
21 time?

22 A. Correct.

23 Q. She was working two jobs most of the time?

24 A. Later on in his life, not the first three
25 years.

1 Q. Okay. Is it possible that she didn't have
2 the financial wherewithal to have her house
3 stripped and repainted?

4 A. Sure it is.

5 Q. Now, he has been -- you've testified that
6 over the course of his young life that he has
7 been seen at the Medical University of South
8 Carolina, Psychiatric Department?

9 A. He had general admission at MUSC and a
10 psyche referral, then the psychiatric setting
11 at William S. Hall.

12 Q. Right. But he was seen at the Medical
13 University, Department of Psychiatry, and I
14 believe that the date on that report is May
15 12th, 1988. Correct?

16 A. Yes.

17 Q. How did he get there?

18 A. He was brought in by his mother for
19 running away and poor school performance.

20 Q. And how did he get to William S. Hall up
21 in June?

22 A. The referral came actually from MUSC.

23 Q. How did he get there?

24 A. I don't know.

25 Q. Is it not true that his mother took him?

1 A. It possibly is, I don't remember that.

2 Q. And is it not true that his mother took
3 him back when he went June the 14th?

4 A. Yes, she did.

5 Q. And is it not true that his mother
6 referred to the Department of Juvenile Justice
7 for being ungovernable later?

8 A. Yes.

9 Q. Now, does that indicate to you that
10 perhaps his mother was trying to get him some
11 help?

12 A. I think that his mother was trying to make
13 sure that he was out of her control. That's
14 what her concern was. And there is other
15 evidence that she wasn't able to get him the
16 help that was recommended.

17 Q. I mean, if she just wanted him out, she
18 could have put him up for adoption, couldn't
19 she?

20 A. Not at that age.

21 Q. Or she could have just given custody of
22 him over to foster care, Department of Social
23 Services; is that right?

24 A. She could have, but she didn't take that
25 route.

1 Q. In fact, DSS was apparently contacted and
2 investigated the home and determined that there
3 was no basis for removing William?

4 A. That's correct.

5 Q. Now -- and, so we have -- he's been seen
6 by a psychiatrist at least three times?

7 A. (Affirmative nod).

8 Q. Has he ever been diagnosed with a mental
9 illness other than major depression?

10 A. That is ---

11 Q. I understand but my question was, has he
12 ever been diagnosed with a mental illness over
13 than that?

14 A. No.

15 Q. And all the IQ tests that he has ever had
16 indicated that he was in average range of
17 intellectual functioning?

18 A. Yes.

19 Q. And referring to the William D. Hall
20 reports, I think he first went up there on May
21 26th, '88 because of the concerns at the Medical
22 University; is that correct?

23 A. Yes, it is.

24 Q. It was noted at that time that there was a
25 tendency for William to try to investigate

1 problems and to direct other children into
2 conflicts.

3 It was also observed that he was assessed
4 for a tendency to harm himself or others by a
5 court-appointed designee that found him to be
6 not harmful to himself or others.

7 A. At that point, yes.

8 Q. And "denied any further thoughts of self-
9 harm."

10 A. Yes, sir.

11 Q. And the condition discharge was "no
12 evidence of psychosis"; correct?

13 A. Yes.

14 Q. Okay. Then four days later, I think he
15 goes up there -- four days after his discharge
16 he returns and his chief complaint was, "I
17 didn't want to stay with my mother."

18 A. Second admission?

19 Q. Yes, ma'am, June the 14th, '88.

20 A. That there were suicidal threats?

21 Q. Date of admission, June 14th, '88.

22 A. (Upon review) the second admission --
23 "Admitted due to serious suicidal threats"?

24 Q. I am referring to this report of Dr.
25 Robert Shultz, M.D., Attending Psychiatrist.

1 The chief complaint on the day of admission,
2 June the 14th of '88, is what?

3 A. "I didn't want to stay with my mother."
4 There was very little information on that
5 admission.

6 Q. I understand. You brought out that, I was
7 just bringing out the other side.

8 A. That was the initial, (affirmative nod).

9 Q. Okay. So he was determined that he was
10 not a danger to himself, is that correct?

11 A. Yes, at the point of early admission.

12 Q. And he "readily acknowledged conflict
13 with his mother" and that he "did not wish to
14 live with her." Is that correct?

15 A. Yes.

16 Q. And it states that he shows reasonably
17 good insight to his situation?

18 A. Yes.

19 Q. And "designates his liability as potential
20 for manipulating the system as a means of
21 avoiding his mother's authority."

22 A. That was stated, yes.

23 Q. And isn't it true that when he was at
24 William S. Hall that he got to do such fun
25 things as play the Nintendo, going to the

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1 movies, going on picnics, ---

2 MR. BLOOM: Judge, I am going to
3 object.

4 THE COURT: Sustained.

5 BRUCE DURANT: May we be heard,
6 Your Honor?

7 THE COURT: Yes, sir.

8 (OFF RECORD BENCH CONFERENCE)

9 THE COURT: I sustain the objection
10 as to relevance.

11 CROSS EXAMINATION CONTINUED

12 BY BRUCE DURANT:

13 Q. After he went to Tara Hall -- excuse me.
14 Briefly that second time, uh, ---

15 A. Where are we?

16 Q. When he went to William S. Hall the second
17 time.

18 A. Okay.

19 Q. Then he ended up going to Tara Hall, is
20 that correct?

21 A. Yes.

22 Q. And according to the records, at Tara Hall
23 he did well?

24 A. Yes.

25 Q. And according to the records at Tara Hall

1 his contact with parents was frequent and
2 regular?

3 A. Yes.

4 Q. And the incident that you've described in
5 June of '90, where he went home and got drunk,
6 it was determined that he lived in a
7 neighborhood where alcohol and drugs were
8 easily bought?

9 A. Yes.

10 Q. And that William described the area as
11 "having pool halls, bars and shootings."
12 Correct?

13 A. Yes.

14 Q. And his family all lived within a small
15 area of Charleston, on the peninsula, and have
16 different family members in trouble?

17 A. Yes.

18 Q. Could his difficulties be part of the
19 actual environment and area that he lived in?

20 A. That could be part of it, yes.

21 Q. Then he started getting into criminal
22 trouble shortly after he was at William S.
23 Hall, is that correct?

24 A. Yes.

25 Q. Beginning in Juvenile Court? He was

1 referred to Juvenile Court several times?

2 A. Yes.

3 Q. Now, -- which kind of culminated in this
4 report that he got for being ungovernable in
5 September of '92. Is that correct?

6 A. The mother initiated the ungovernable.

7 Q. Right, she initiated the petition and he
8 was supposed to get a -- I believe that you
9 testified that he was supposed to be a
10 community evaluation, that he did not show up
11 because his mother didn't take him, and then he
12 ended up having a detained evaluation in
13 Columbia. Is that correct?

14 A. Yes.

15 Q. Is that situation?

16 A. I don't remember the exact -- but it was a
17 detained evaluation.

18 Q. And you considered that evaluation as well
19 as part of your -- in preparing for trial in
20 this case. Is that correct?

21 A. Yes.

22 Q. He told the evaluator at that time that
23 the reason for the need for the psychological
24 evaluation was that he stayed out late and did
25 not come home at all.

1 A. That's correct.

2 Q. That he would not listen to his mother.

3 Correct?

4 A. Yes.

5 Q. And just gave her an overall hard time?

6 A. Judgment call. I don't agree to that
7 language.

8 Q. Well, this was what he was telling them.
9 Isn't that what the evaluation says?

10 A. That is what he told them, yes.

11 Q. He admitted that he did not show up for
12 the court-Ordered evaluation.

13 A. Yes.

14 Q. Correct?

15 A. (Affirmative nod), yes.

16 Q. That he also was having difficulty with
17 his stepfather, correct?

18 A. Yes. According to his relatives, he
19 reported that.

20 Q. He was quick to blame his stepfather "for
21 wanting to run the whole house"?

22 A. That was the social worker's comment in
23 the evaluation.

24 Q. Said that he feeling displaced from his
25 former role as kingpin of the house?

1 A. That was that social worker's evaluation
2 also at that point. That was her or his
3 position/interpretation.

4 Q. Right. He was having problems in school?

5 A. Yes.

6 Q. Problems in his relationships with his
7 teachers?

8 A. I reviewed his records but, as I said, my
9 focus had to do with his first twelve or
10 thirteen years. I did see those records and
11 there was a report of the R&E social worker.

12 Q. When he was seen by the supervising
13 psychologist, Ms. Edwin Herron, Ph.D., he
14 acknowledged that he often argued with his
15 mother and stepfather, who fussed when he
16 misbehaved. Correct?

17 A. Yes.

18 Q. He denied every being abused.

19 A. Yes, he did. He denies that now.

20 Q. He also reported, "I wouldn't come home at
21 all at night." He admitted not reporting to
22 the evaluation and that's when he ended up
23 being sent to the Marine Institute?

24 A. Yes.

25 BRUCE DURANT: Beg the court's

1 indulgence.

2 THE COURT: Take your time, Mr.

3 Durant.

4 CROSS EXAMINATION CONTINUED

5 BY BRUCE DURANT:

6 Q. Basically what he was reporting in the
7 home was not violence but more than he and his
8 mother just gave each other the silent
9 treatment?

10 A. I don't agree with that.

11 Q. I mean, that's what he said.

12 A. That's what he said, (affirmative nod).

13 Q. Okay.

14 A. But I do have the report of others.

15 Q. I understand that you have a right to your
16 opinion.

17 MR. BLOOM: Objection.

18 THE COURT: Sustained, Mr. Durant.

19 CROSS EXAMINATION CONTINUED

20 BY BRUCE DURANT:

21 Q. And it is a fact that he wasn't living
22 with his mother on March 7th and 8th, 2006,
23 when ---

24 A. No.

25 Q. --- he tortured and murdered Gerard Roper?

1 A. Well, again, my effort and my report goes
2 directly to early years. I was instructed to
3 do a family background and history of those
4 early years, so that information was not
5 something that I covered.

6 Q. Okay. If I am wrong, please correct me,
7 but is it your testimony that his behavior on
8 that date is the fault of his mother?

9 A. I didn't say that, no. It's cumulative
10 factors.

11 BRUCE DURANT: I have nothing
12 further. Thank you very much, ma'am.

13 THE COURT: Redirect?

14 REDIRECT EXAMINATION

15 BY MR. BLOOM:

16 Q. Ms. Hammock, I have some followup
17 questions. First off, let me ask you generally
18 if there was any question that you were just
19 asked by the solicitor that you feel that you
20 needed a larger opportunity to explain any of
21 your answers?

22 A. Well, some of them were yes and no. I did
23 just that, I said 'yes' or 'no.'

24 Q. All right. Has any questions changed the
25 testimony that you've given?

1 A. No, it hasn't.

2 Q. All right. Let me ask you a few things.

3 He asked you about William's lead level. Did
4 you receive information from DHEC that some of
5 the records as to William had been purged and
6 destroyed?

7 A. (Affirmative nod), had been purged and
8 destroyed. That's correct.

9 Q. So all of his records were not available?

10 A. That's correct.

11 Q. Do your interviews and other records
12 reveal whether or not he was living in the same
13 household that Armon was in at ---

14 A. All records indicate that.

15 Q. Next, the solicitor asked you some
16 questions about the William S. Hall record, I
17 think the first admission, regarding William
18 instigating or manipulating. Let me hand you,
19 if I may, a page of that report and direct your
20 attention to the bottom. If you can, read out
21 loud the entire area there that I have marked,
22 please.

23 A. (Reading): "Final Summary: ..." ---

24 Q. One moment, please.

25 (SIDEBAR WITH BRUCE DURANT)

1 REDIRECT EXAMINATION CONTINUED

2 BY MR. BLOOM:

3 Q. Read the entire complete ---

4 A. (Reading): "The patient was admitted to
5 Ward 160 where he adjusted to the ward rapidly
6 -- (pause). It was a tendency of William to
7 try to instigate problems and direct other
8 children into conflict. From these
9 manipulative plays that he exhibited, it was
10 explained to the patient. He was assessed for
11 a tendency to harm himself or others by court-
12 appointed designee and found not to be harmful
13 to himself or to others during his hospital
14 stay. He denied any further thoughts of self-
15 harm and believes that this was not a good way
16 to approach his problems."

17 Q. All right. There is some medical and
18 other language in there. Can you explain to us
19 the importance of that?

20 A. Again, he comes into the setting and he
21 has some behaviors that he tries to protect
22 himself and to direct other children into
23 conflicts. They talk about manipulation. He
24 was trying to get this control over his
25 setting, so the manipulative plays were

1 identified and explained. A counselor told him
2 or helped him to understand what he was doing.
3 He in fact then agreed that this was not a good
4 way, even though -- in other ways he was
5 directed; but, again, his behavior initially
6 was to try and control the environment.

7 Q. Did you see anything for the record, once
8 he was counseled on that occasion, do you see
9 anything else in the record as to his positive
10 adjustment to ---

11 A. It says that he had thoughts of self-harm
12 and that then he agreed, according to this,
13 that it was not a good way to approach his
14 problems.

15 Q. All right. Thank you, ma'am. Next, the
16 solicitor also asked you, I believe on page one
17 of the doctor's report, that he did not want to
18 live with his mother, -- I ask you to look at
19 this page, is that one of the records that you
20 reviewed from William S. Hall, the State
21 psychiatric hospital?

22 A. This was an admission form with
23 identifying information and his chief
24 complaint.

25 Q. If I could call your attention to the part

1 that I have marked on that, if you could read
2 that.

3 A. (Reading): "As a part of the history of
4 mental illness, he claims he often does not
5 know why he is being scolded. Because of that,
6 he has become more fearful of his mother when
7 she physically punishes and that some times she
8 used a belt of some type or some type of weapon
9 and on occasion has inflicted injury on his
10 chest. One such injury has left a mark."
11 That's what is highlighted.

12 Q. And your testimony again in this regard is
13 that that page, as well as the previous page
14 where he is counseling, this was all when he
15 was eleven years old?

16 A. Yes.

17 MR. BLOOM: Thank you.

18 THE COURT: Recross?

19 BRUCE DURANT: No, sir.

20 THE COURT: Ma'am, you may come
21 down. Thank you very much. Do you wish the
22 witness to be excused?

23 MR. BLOOM: Please, Your Honor.

24 THE COURT: Any objection?

25 BRUCE DURANT: No, sir.

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1 THE COURT: Ms. Hammock, you are
2 free to leave as well. Thank you very much.

3 (WITNESS STEPS DOWN)

4 THE COURT: What is the length of
5 your next witness?

6 MR. BLOOM: Yes, sir, Doris Gamble.

7 THE COURT: How long -- what is the
8 length of your next witness?

9 MR. BLOOM: I'm sorry. The next two
10 are very, very brief. Maybe five minutes.

11 THE COURT: I am thinking lunch
12 somewhere between 12:30 and 1:00.

13 MR. BLOOM: I've got three short
14 witnesses.

15 THE COURT: Let's put those up.

16 MR. BLOOM: Yes, sir. Doris Gamble.

17 (WITNESS TAKES STAND)

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

21 DIRECT EXAMINATION

22 BY MR. BLOOM:

23 Q. Where have you employed?

24 A. Tara Hall School and Home for Boys.

25 Q. That's located where?

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1 A. Excuse me?

2 Q. That's located where?

3 A. In the Rose Hill section of Georgetown.

4 Q. What is your job there?

5 A. I have been a principal for a time and
6 then I teach there, English, a reading teacher
7 for a period of time, and Christian values.

8 Q. Those are the subjects you've taught?

9 A. Yes. Now I teach all of the subject
10 areas.

11 Q. How long have you been employed there at
12 Tara Hall?

13 A. Thirty-four years.

14 Q. During -- at some point in time was
15 William Dickerson a student there?

16 A. Yes.

17 Q. I believe that he was your student for
18 about two years?

19 A. Yes.

20 Q. What kind of student was he for you?

21 A. (No verbal response).

22 Q. Just generally.

23 A. Oh, he was caring and quiet, we had no
24 problems with him, he was a good student, he
25 performed well.

1 Q. Was he cooperative with you?

2 A. Yes.

3 Q. Was he respectful?

4 A. Yes.

5 Q. Did he ever bully any of the other
6 children?

7 A. No.

8 Q. Did he ever get into any fights?

9 A. No. We didn't have that problem with him.

10 Q. How would you describe him in terms of
11 being either a quiet student or kind of a -- I
12 don't know what term that teachers would use
13 for one that ---

14 A. He was obedient, he did what he was told
15 and he followed the rules.

16 Q. Was he a leader in the class in any way?

17 A. Excuse me?

18 Q. Was he a leader in the class?

19 A. Yes.

20 Q. In what way?

21 A. Well, in subject matters if there was a
22 problem that the kids didn't understand, the
23 way that I use my students is that -- through
24 demonstration, through example. If you answer
25 something, you go to the board and show the

1 others how you got that answer. That's the
2 kind that he -- you could always depend on him.

3 Q. So he was helpful to others?

4 A. (Affirmative nod), very helpful.

5 Q. He was helpful in your class?

6 A. Yes.

7 Q. You enjoyed having him as a student?

8 A. I enjoyed having him as a student,
9 (affirmative nod).

10 MR. BLOOM: Thank you, ma'am.

11 Please answer any questions that the prosecutor
12 may have.

13 THE COURT: Any questions?

14 SOLICITOR WILSON: Just a couple,
15 Your Honor.

16 THE COURT: Certainly.

17 CROSS EXAMINATION

18 BY SOLICITOR WILSON:

19 Q. Good afternoon, Ms. Gamble?

20 A. Hi. How are you?

21 Q. I'm good. I just wanted to ask you a
22 couple of questions. Do you have any
23 information about the success rate of boys who
24 complete their time at Tara Hall, as far as
25 whether or not they get into trouble again?

1 That sort of information?

2 A. I can't rightly say that because -- but
3 I'm sure that the director keeps up with stuff
4 like that.

5 SOLICITOR WILSON: That's all that
6 I have. Thank you.

7 THE COURT: Redirect?

8 REDIRECT EXAMINATION

9 BY MR. BLOOM:

10 Q. Ma'am, I neglected to ask you, generally
11 can you just ---

12 BRUCE DURANT: Objection.

13 THE COURT: Finish the question --
14 don't answer the question yet.

15 REDIRECT EXAMINATION CONTINUED

16 BY MR. BLOOM:

17 Q. If you could, summarize generally for us
18 your educational background and training.

19 THE COURT: No, sir, that's not --
20 that's not proper redirect.

21 MR. BLOOM: Thank you, Your Honor.
22 Thank you.

23 THE COURT: You may come down, Ms.
24 Gamble.

25 (WITNESS STEPS DOWN)

1 THE COURT: Do you wish the witness
2 to be excused?

3 MR. BLOOM: Please, Your Honor.

4 THE COURT: Any objection?

5 BRUCE DURANT: No, sir.

6 THE COURT: Call your next witness,
7 please.

8 MR. BLOOM: Jimmy Mitchell.

9 (WITNESS TAKES STAND)

10 JIMMY L. MITCHELL, being duly sworn to
11 tell the truth, the whole truth and nothing but
12 the truth, testified, as follows:

13 DIRECT EXAMINATION

14 BY MR. BLOOM:

15 Q. Where do you currently work?

16 A. Tara Hall.

17 Q. Were you a former student there, as well?

18 A. Yes.

19 Q. What is your employment job at Tara Hall?

20 A. Childcare worker.

21 Q. What are your general duties in that
22 regard?

23 A. (No verbal response).

24 Q. What are some of the things that you do?

25 A. Look after the boys.

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1 Q. Did there come a time, either as a student
2 or in your employment there, that William
3 Dickerson was there with you, as well?

4 A. Yes.

5 Q. Are you a few years older than him?

6 A. Yes, about five years.

7 Q. How would you describe William from the
8 time that you knew him there for those two
9 years at Tara Hall?

10 A. He was laid back, real nice, quiet, get
11 along with everybody.

12 Q. He got along with everybody?

13 A. Yes.

14 Q. Did you ever describe him in fights or
15 bullying other ---

16 A. No.

17 Q. In fact, if arguments or conflicts
18 erupted, what would William usually do?

19 A. He usually -- if somebody was arguing or
20 got into a fight, he would try to stop it.

21 Q. He would act as a mediator, try to calm
22 the situation down?

23 A. (Affirmative nod).

24 MR. BLOOM: Thank you very much, Mr.
25 Mitchell. I appreciate you being here today to

1 answer those few questions. Please wait to see
2 if the solicitor wants to ask you any
3 questions. Thank you.

4 THE COURT: Any questions?

5 SOLICITOR WILSON: No, sir. Thank you
6 for coming.

7 THE COURT: Mr. Mitchell, you may
8 step down. Do you wish the witness to be
9 excused?

10 MR. BLOOM: Please, Your Honor.

11 THE COURT: Any objection?

12 SOLICITOR WILSON: No, sir.

13 (WITNESS STEPS DOWN)

14 THE COURT: Say you have another
15 short witness?

16 MR. BLOOM: Yes, sir, may be a
17 little longer than the other two but not very
18 long.

19 THE COURT: All right.

20 MR. BLOOM: (Tenders document to be
21 marked as exhibit)

22 COURT REPORTER: Defendant's Exhibit
23 23 for identification.

24 MR. BLOOM: We call James Dunn.

25 (WITNESS TAKES STAND)

1 JAMES DUNN, being duly sworn to
2 tell the truth, the whole truth and nothing but
3 the truth, testified, as follows:

4 DIRECT EXAMINATION

5 BY MR. BLOOM:

6 Q. Mr. Dunn, where are you currently
7 employed, sir?

8 A. I'm the Executive Director at the Tara
9 Hall Home for Boys in Georgetown.

10 Q. How long have you been there?

11 A. I've been there since 1970, I've been the
12 Director since '78.

13 Q. Can you tell us a little bit about what
14 Tara Hall is and what it does?

15 A. Simply stated, we're a home and school for
16 boys who for lots of reasons need a place to
17 live. They are placed with us because of abuse
18 and neglect in the family setting or because of
19 emotional and behavioral problems that the boy
20 himself has.

21 Q. All right. What is the average time that
22 a young boy is at your school?

23 A. We're usually a two-year program. We feel
24 like we can do a more complete job if we have
25 the boys for at least two years.

1 Q. All right. What range of ages do ---

2 A. We like to get them young. We usually get
3 them from age six to thirteen.

4 Q. Why is that, why do you like to get them
5 young?

6 A. We like to get them before they get too
7 set in their ways. We like to get them where
8 they can be shaped and where we can really
9 train as well as we can.

10 Q. You said age six?

11 A. Yes, sir. Six to twelve. The average age
12 of admittance is anywhere from eight to eleven.

13 Q. All right, sir. Can you describe a little
14 bit as to what you mean that it is a
15 residential home.

16 A. We are residential home. We're in a
17 wooded area in Georgetown County, located on
18 Black Mango Creek, and the boys actually live
19 on campus. They are able to visit at home for
20 periods of time, usually once a month now and
21 then for more extended times at the Christmas
22 holidays and spring break.

23 Q. Now, what is the level system that Tara
24 Hall uses?

25 A. The way that we work with the boys is a

1 level system that we call System for Self-
2 Achievement. Our attitude is that the boy is
3 responsible for his own behaviors and he can go
4 as high in the level system as he works for or
5 he can stay pretty much stuck-in-the-mud if he
6 doesn't cooperate and work with us.

7 Q. Do you remember William Dickerson?

8 A. Yes, sir, I sure do.

9 Q. In fact, I think you know me that you
10 remember him pretty well.

11 A. Pretty well, yes, sir.

12 Q. What level did he reach?

13 A. He reached level 3, and top is level 4.

14 You have to demonstrate consistent cooperative
15 behavior to get to level three and stay at
16 level three. Most of our boys, even currently,
17 most of them get to level two fairly quickly
18 but to get to level 3, and certainly level
19 four, takes longer. To stay on level three
20 takes considerable effort.

21 Q. Did William get to level three rather
22 quickly?

23 A. He did, and he stayed there.

24 Q. Stayed there?

25 A. (Affirmative nod).

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1 Q. Did he seem to be functioning on his own
2 with little direction?

3 A. Yes, level three have to be pretty much
4 responsibility for your daily behaviors with
5 very little direction by staff or teaching
6 staff.

7 Q. How did William get along with his
8 teachers while he was there?

9 A. He was never a problem in the classroom.
10 That's why he did so well in school and on the
11 levels, because he was always cooperative. He
12 would go out of his way to be helpful.

13 Q. How was he with other students?

14 A. For most part, he was good. The way we
15 discipline the kids on a daily basis is that we
16 have a pink card system, where when a coy
17 breaks one of the rules or gets in a hassle
18 with another kid, we write out on a pink card
19 what the infraction was and William got very
20 few of those during the course of his two-year
21 stay with us.

22 Q. Was he ever a bully in any way with the
23 other students?

24 A. Not that I recall; no, sir.

25 Q. How would you describe him generally as a

1 child when you had him between the ages of
2 eleven and thirteen?

3 A. He was really one of the easier kids for
4 us to work with and to maintain because he was
5 so cooperative.

6 I don't remember any incidents where we
7 had to put him on our discipline level or where
8 he was argumentative or in trouble, with kids
9 or staff.

10 Q. And you sometimes have that with children
11 there, because ---

12 A. Frequently. Frequently. Almost on a
13 daily basis with one kid or the other.

14 Q. Was there an incident where he had a visit
15 home right before he was scheduled to graduate,
16 during that time period, where he got
17 inebriated on a weekend home?

18 A. Yes, sir. That's in my notes. I forget
19 exactly how that came to my attention, whether
20 it was from William or from his mother, I
21 forget how that came to our attention but it
22 was reported.

23 Q. In your professional capacity, what
24 concern did you have about that?

25 A. Well, you always wonder, you know,

1 especially when a kid is near returning home if
2 at times they are trying in their own way to
3 say, 'I really don't want to go home' or if
4 they are saying, I can't wait until I get home
5 and I have this freedom.'

6 In William's case, I really can't recall
7 all the circumstances around it. I don't
8 remember the mom ever asking me to hang onto
9 him longer, because in many people -- we will
10 keep the kid as long as necessary as long we
11 are happy with the child and the child and
12 family are happy with our services.

13 Q. Would you have kept William longer than
14 necessary if an agency ---

15 A. Based on what I remember, I don't see any
16 reason why we would not have.

17 Q. Lastly, can you give us the benefit of
18 your educational training and background that
19 helps lead you to be the Director of Tara Hall?

20 A. Probably the biggest attribute that I
21 brought to the table was that I was one of nine
22 children myself, because I graduated from Penn
23 State with a degree in Political Science, which
24 didn't prepare me for work. Although when I
25 graduated from Penn State, I was going into the

1 Business program and was assigned to the
2 Andrews area and that's where I first connected
3 with Tara Hall. Then I taught for a year
4 special education at the old Howard High School
5 in Georgetown. I've been at Tara Hall now
6 almost forty years and that's kind of -- kind
7 of became a jack of all trades and learned and
8 we've went along.

9 Q. Let me who you what has been marked as
10 Defendant's Exhibit 23, and ask if you can
11 identify that and if you've had an opportunity
12 to review it.

13 A. Yes, sir. This is a this is a DVD made
14 from a tape that we provided the defense some
15 time back. What it is, it's a program that we
16 use for public relations and to explain to
17 people the program at Tara Hall.

18 Q. You have reviewed that tape?

19 A. Yes, sir. We actually made this over the
20 course of January and February of 1990?

21 Q. The original tape?

22 A. Yes, sir, the original tape.

23 Q. That DVD copy is about a ten-minute video
24 of Tara Hall?

25 A. Yes, sir.

1 Q. Does William appear in it?

2 A. William is in it on numerous occasions,
3 yeah.

4 MR. BLOOM: Court's indulgence one
5 moment -- (tenders document to be marked as
6 exhibit), if I may have this marked so that I
7 can show it to the witness.

8 COURT REPORTER: Defendant's Exhibit
9 24 for identification.

10 DIRECT EXAMINATION

11 BY MR. BLOOM:

12 Q. Mr. Dunn, at Tara Hall is there -- I am
13 going to hand you Defendant's Exhibit 24. At
14 Tara Hall is there, on one large wall of the
15 school, a photo montage of all or many of the
16 different students you've had over the years?

17 A. Yes, it is.

18 Q. Is that defendant's exhibit that I've
19 handed you a representation of part of that?

20 A. Yes, sir, it is.

21 Q. Is William there in the center?

22 A. William is right there in the middle; yes,
23 sir.

24 Q. If I could have you hold that up and point
25 to William?

1 A. (Indicating), right there.

2 Q. Thank you.

3 MR. BLOOM: Please answer any
4 questions the solicitor may have.

5 THE WITNESS: Certainly.

6 THE COURT: Cross examine?

7 CROSS EXAMINATION

8 BY SOLICITOR WILSON:

9 Q. Mr. Dunn, do you remember me?

10 A. Not really.

11 Q. You know Dion Wilson?

12 A. Oh, yeah. Okay. Sure. Yes, ma'am.

13 Q. That's my Dad -- been a long time since
14 I've been out to Tara Hall.

15 A. Yes, ma'am. You served on our Board for a
16 number of years.

17 Q. Yes, sir, and I appreciate the work that
18 you do, I really do. I just want to ask you a
19 few questions that we haven't gone into.

20 A. Okay.

21 Q. First of all, how do boys get accepted to
22 Tara Hall?

23 A. We have an application process that -- you
24 know, it's like a ten-page, twelve-page
25 application form. Anybody can refer to Tara

1 Hall. Parents often do, many times grand-
2 parents, aunts or uncles who are raising
3 children do. We get referrals from the
4 Department of Social Services, Department of
5 Juvenile Justice, mental health centers, just
6 lots and lots of different resources refer
7 children.

8 Q. Is Tara Hall funded by grants or tuition
9 or ---

10 A. We exist primarily on donations from the
11 general public.

12 Q. But for a child or a boy to attend there,
13 to live there, they don't have to pay?

14 A. No, ma'am. That's correct.

15 Q. You mentioned that you like to keep boys
16 there for two years?

17 A. Right.

18 Q. Is that something that is firm?

19 A. The parents sign a basic agreement to that
20 effect but many times parents will choose to
21 withdraw a child early. Sometimes it's okay
22 with us because a boy might make more
23 significant progress than you would have
24 anticipated. Other times, maybe not, the kid
25 might need longer placement.

1 Back in the time that William was there,
2 cases always reviewed by an organization called
3 the Children's Foster Care Review Board system.
4 They were in place -- the State legislature put
5 them in place to review cases of all children
6 in foster care every six months to make sure
7 that children weren't being abused.

8 Q. Have you or members of your staff at Tara
9 Hall ever made a decision or a recommendation
10 to keep a boy longer than that two years?

11 A. (Affirmative nod), frequently. Yes,
12 ma'am.

13 Q. Do you know what the longest is that
14 you've kept a boy there?

15 A. Oh, boy. We have -- we kept one child
16 till he finished his college education. He
17 attended Coastal Carolina and, in fact, he
18 became what I call a 'professional student'.
19 It took him six and a half years to graduate,
20 but he finally did. He lived at Tara Hall that
21 entire time.

22 Q. Is he doing okay now?

23 A. (Affirmative nod), he's doing great.

24 Q. In that regard, what is the success rate
25 or the flip side, recidivism rate of boys at

1 Tara Hall?

2 A. It is really hard to say because -- in
3 many cases we know the kids are doing well,
4 they stay in touch with us, their families stay
5 in touch. Many children we know aren't doing
6 as well. Sometimes we will get various collect
7 calls from prisons throughout the state.

8 The vast majority we're not sure of,
9 because we deal with a lot of transient
10 families. We also don't have a large enough
11 staff to where we can do an awful lot of
12 followup.

13 In fact, back in the days William was
14 there, I don't think that we did any followup
15 at all. Now that we have a larger staff we try
16 to, for at least six months.

17 Q. You'all take boys from across the state or
18 the country?

19 A. We take them from across the state,
20 although since we have started to work more
21 closely with families in the last ten years we
22 try to keep them within a hundred miles of our
23 campus because we do have visit in the homes of
24 the families.

25 Q. Either based on memory or based on your

1 protocol, would you have released William if he
2 get not gets your tenants and the things that
3 you taught after two years?

4 A. We would have strongly encouraged the
5 family to let him remain with us if he had not
6 been doing as well as he had been. Yes, ma'am.

7 Q. But it appears that he was released or
8 sent back after the two years?

9 A. Yes, ma'am. He was on our level three
10 when he returned home.

11 Q. Meaning that he got your tenants, as I
12 believe you said, responsibility and basically
13 accountability?

14 A. He was doing really well. He did well in
15 the educational aspect of the program and he
16 was ready to enter high school, if I remember
17 correctly.

18 SOLICITOR WILSON: That's all the
19 questions that I have. Thanks.

20 THE WITNESS: You're welcome.

21 THE COURT: Redirect.

22 MR. BLOOM: Briefly.

23 REDIRECT EXAMINATION

24 BY MR. BLOOM:

25 Q. Mr. Dunn, I believe you said now you have

1 a staff where you do home visits?

2 A. Yes, sir, for about the last ten years we
3 have been doing that.

4 Q. Can you explain that process is and why
5 you do that now?

6 A. For a long, long time I saw the family as
7 the "enemy", where they created this kid and
8 brought him to us and now 'leave us alone, you
9 take care of him.' But the longer I've been in
10 the business, I finally realized that no matter
11 how abused or neglected that a child is that he
12 loves that mom, he loves that dad. So we
13 decided more like ten or fifteen years ago to
14 try to partner more with the family, to try to
15 get them to buy-in more to what we are trying
16 to do for the kids, try to get them plugged
17 into services in their communities to make sure
18 that when 'Johnny' is ready to return home they
19 are more ready to meet Johnny's needs and make
20 sure that he stays home.

21 Q. That home visit program was not in place
22 when William ---

23 A. No, sir. Unfortunately it wasn't.

24 THE COURT: Recross?

25 SOLICITOR WILSON: No, sir.

1 THE COURT: Do you wish Dr. Dunn to
2 be excused?

3 MR. BLOOM: Please.

4 THE COURT: Any objection?

5 SOLICITOR WILSON: No, sir.

6 THE COURT: You also are free to
7 leave.

8 (WITNESS STEPS DOWN)

9 THE COURT: At this point, we will
10 take our recess for lunch, Ladies and
11 Gentlemen. Please remember, do not begin your
12 deliberations, do not discuss this case. As
13 you know, I think we've planned for you to eat
14 together again today. This time -- we'll take
15 an hour and a half for us, you take as long as
16 you need. Don't feel like you have to rush
17 back. If it takes longer, it takes longer. We
18 will be ready when you come back. We'll be
19 back in an hour and a half but if your
20 situation and you'all are enjoying that
21 fellowship, please take advantage of it. Thank
22 you.

23 (JURY OUT @ 12:37 P.M.)

24 THE COURT: Any matters from the
25 State before we recess?

1 SOLICITOR WILSON: No, sir.

2 THE COURT: Any matters from the
3 defense?

4 MR. BLOOM: No, sir.

5 THE COURT: The witnesses that you
6 have remaining for the afternoon are?

7 MR. BLOOM: I've got two lengthy
8 witnesses I've got to get ---

9 THE COURT: That's fine. Longer
10 than Ms. Hammock?

11 MR. BLOOM: I don't think Dr.
12 Phillips will be that long, the records are now
13 as exhaustive.

14 THE COURT: In that regard, you have
15 now published a good portion of the records.
16 Some of that, I think, is good to allow without
17 objecting to publishing to what is tantamount
18 to hearsay, it's certainly proper for an expert
19 to consider it, but I want to you -- the jury
20 has heard that now. We don't need people to
21 publish these -- other things that they've
22 relied that have not been published, obviously
23 to the extent that the rules permit, that's
24 fair game. But I don't want those same
25 documents published again through their

1 testimony. I assume that you won't be ---

2 MR. BLOOM: There might be one of
3 two portions that I will ask them to refer to
4 specifically but I will direct them -- it won't
5 be lengthy.

6 THE COURT: The problem that we
7 have, and this is that gray area in this second
8 phase, the rules say that you can ask 'did you
9 consider it' and 'is it customarily reviewed by
10 experts', and then you give an opinion. They
11 don't get to publish it unless the defense asks
12 them questions and the court requires it. Just
13 a reminder of that part. Right now -- I think
14 it was very helpful to not have to bring in all
15 the people that would have talked to Ms.
16 Hammock, I appreciate the strategy in that,
17 that was very helpful.

18 But when we get into expert's
19 opinions, and these were professionals that are
20 rendering opinions, psychiatrists and
21 psychologists, the rule applies for a reason.
22 I think it does for this reason. It stream-
23 lines the examination. It allows both sides to
24 focus on those areas of real concern, and
25 that's what is important.

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1 MR. BLOOM: We will do that.

2 THE COURT: Thank you very much.

3 Okay, we'll be at-ease. I ask that you'all be
4 back by 2:00.

5 (LUNCH RECESS)

6 (DEFENDANT PRESENT)

7 THE COURT: Let the record reflect
8 that Mr. Dickerson is present. We have a
9 couple of matter -- do you want to put those
10 photographs in, too? Well, Court's Exhibit 29
11 is a list of all deputies who have been sworn;
12 for everybody's benefit, the list is there for
13 everybody to see.

14 (SO ENTERED AS COURT'S EXHIBIT 29)

15 THE COURT: Mr. Bloom, you
16 approached concerning some photographs that
17 were mentioned in testimony and there was an
18 objection concerning the Williams -- the
19 gentleman's name?

20 COURT REPORTER: John Williams.

21 THE COURT: John Williams. They are
22 defendant's exhibits ---

23 COURT REPORTER: Defendant's Exhibit
24 31 and 32 for identification.

25 THE COURT: For ID. They are

1 photographs that we've discussed and I'll be
2 glad to hear from you. They show what happened
3 to Mr. Williams as a result of the altercation,
4 about which there has been testimony by Mr.
5 Huggins and -- what was the lady's name?

6 COURT REPORTER: Ms. Williams,
7 Leester Williams.

8 THE COURT: Yes, Ms. Williams. I
9 will be happy to hear from you now.

10 MR. BLOOM: Briefly, Your Honor, we
11 feel that they are relevant because the
12 photographs show the injury to John Williams'
13 face, which the Defendant would have seen since
14 he was his cell mate and that goes to the state
15 of mind of why he may have acted the way that
16 he did during the incident testified to by the
17 officers on December 7th, 2008.

18 THE COURT: Thank you. There was
19 testimony -- as I understand, the State objects
20 to these photographs?

21 SOLICITOR WILSON: Yes, Your Honor,
22 as to relevance and there is no foundation that
23 the Defendant would have seen that or that Mr.
24 Williams appeared like that at that time.

25 THE COURT: Assuming just for the

1 sake -- I think that the objection to lack of
2 relevancy is sustainable, and I would sustain
3 it primarily on that basis. But assuming that
4 it has some probative value as to what prompted
5 the Defendant to take the actions he took, I
6 really don't think the injuries, which are the
7 result of what occurred, -- these injuries
8 would not have necessarily been present at the
9 moment that he made the decision. I think the
10 decision -- there was an abundance of
11 testimony, in fact the one witness who
12 testified from the cell that they saw three
13 persons on Mr. Williams, obviously those are
14 probably more motivating factors than what the
15 injuries were.

16 It was -- everything that was
17 testified to and, furthermore, the testimony
18 that we had in the Motions hearing, that was
19 just the opinion of everybody that they were
20 ganging up, and I use that term loosely, on Mr.
21 Williams, which prompted him to act for his
22 defense.

23 I think that if there is any
24 connection, these photographs -- that the
25 prejudice is outweighed by the probative value

1 because the fact that there was injury doesn't
2 prompt anything specifically. The objection is
3 sustained. Basically that's stated in the
4 record.

5 Are we ready to continue?

6 MR. BLOOM: Yes, sir.

7 THE COURT: State's ready?

8 SOLICITOR WILSON: Yes, sir.

9 THE COURT: Let's bring in our jury.

10 (JURY IN @ 2:29 P.M.)

11 THE COURT: I am advised by Mr.

12 Wilson that lunch went well. Mr. Wilson -- I
13 tell Ms. Armstrong that he does a good job of
14 being a lunch tour director and I appreciate
15 very much his taking the time to arrange that
16 for you. I hope that was enjoyable and
17 relaxing for you, as well.

18 We are ready to continue. Mr. Bloom,
19 you may call your next witness.

20 MR. BLOOM: If it please the court,
21 we would move Defendant's Exhibit 23 into
22 evidence, which is the ten-minute video of Tara
23 Hall that Mr. Dunn identified. We will play
24 that at this time. I understand that there is
25 no objection ---

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1 THE COURT: Any objection?

2 SOLICITOR WILSON: No, sir.

3 THE COURT: Without objection,
4 Defendant's Exhibit 23 is admitted. It is the
5 CD that had been previously identified. You
6 may proceed.

7 MR. BLOOM: Thank you, Your Honor.
8 We will pause it at brief points.

9 THE COURT: Okay.

10 (SO ENTERED AS DEFENDANT'S EXHIBIT 23)

11 (DEFENDANT'S EXHIBIT 23 PLAYED BEFORE JURY)

12 MR. BLOOM: Your Honor, our next
13 witness will be Dr. Robert Phillips.

14 (WITNESS TAKES STAND)

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

18 DIRECT EXAMINATION

19 BY MR. BLOOM:

20 Q. Dr. Phillips, what is your area of
21 expertise?

22 A. My area of expertise is Psychiatry and
23 Forensic Psychiatry.

24 Q. What is your general educational
25 background in that regard?

1 A. I received a bachelor of science degree
2 from the College of Arts & Sciences at Boston
3 College.

4 I received a master's in education
5 planning of public policy from Harvard
6 University; a Ph.D. in Science Education from
7 the University of Iowa; a doctorate of Medicine
8 from the Mayo Clinic -- pardon me, I'm
9 struggling with a cold. I assure you that is
10 not the swine flu. Allergies and a cold, it's
11 been pretty rough.

12 THE COURT: There are many of us in
13 this courtroom that have been fighting that, as
14 well. No apology necessary.

15 THE WITNESS: I received my
16 medical degree from the Mayo Clinic in
17 Rochester, Minnesota (sic), subsequent to which
18 I did some intern training in emergency
19 medicine and in obstetrics-gynecology at the
20 College of Medicine, Columbia University. I
21 did my obstetrics subinternship at Sloan
22 Hospital for Women, of Columbia University in
23 New York City. I did my internship at the Mayo
24 Clinic and then my residency and chief
25 residency at the Yale University School of

1 Medicine in New Haven, Connecticut.

2 DIRECT EXAMINATION CONTINUED

3 BY MR. BLOOM:

4 Q. What is some of your work experience in
5 fields of psychiatry and forensic psychiatry.

6 A. I have been the Director of Forensic
7 Services for the State of Connecticut; also the
8 Chief Executive Office of the Whiting Forensic
9 Institute, which is a State maximum security
10 hospital; I have served as the deputy medical
11 director of the American Psychiatric
12 Association, which is the subspecialty body
13 represents the forty thousand practicing
14 psychiatrists in this country and published the
15 book that has been referenced in this trial, is
16 frequently referenced, and that is the DSM-IV,
17 which is our publication.

18 Q. That is the publication that all
19 psychologists, psychiatrists and other mental
20 health professionals use to diagnose patients?

21 A. That's correct. It is the book that we
22 use to communicate with one another our
23 clinical opinions and to also assist in under-
24 standing what a practitioner in California
25 might see and then someone in Charleston would

1 be able to understand exactly what they're
2 talking about by simply using some of the terms
3 that are codified within that text.

4 Q. All right, sir. Have you also done work
5 for the United States Secret Service, the
6 United States government?

7 A. Yes, I am the senior consulting
8 psychiatrist for the Protective Intelligence
9 Section of the Intelligence Division of the
10 U.S. Secret Service mental health liaison
11 program. I have three responsibilities in that
12 capacity:

13 One is to assist in the training of
14 agents to better familiar themselves with the
15 issues that arise when they may have to deal
16 with someone who may suffer from mental
17 illness.

18 Secondly, I will assist in the review
19 of records and also in liaisoning with other
20 hospital or treatment facilities in the area
21 where that there subjects of interest that the
22 agents of the Service would like to speak with
23 or when they are having difficult getting
24 people in the emergency room when they show up
25 at the front door of the White House, wanting

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1 to speak to the President.

2 Q. You help the government in that regard?

3 A. Yes. But my most significant role in
4 working with the Service is to assist in the
5 assessment of individuals who threaten the life
6 of the President of the United States.

7 Q. That is something that you currently do?

8 A. Yes.

9 Q. Have you received a particular award from
10 South Carolina for your work ---

11 A. Actually I am humbled and honored to have
12 received the Thomas F. Pittz Memorial
13 Lectureship at the Medical University of South
14 Carolina last year in area of Mental Ethics and
15 lectures on pertinent issues to psychiatry in
16 that field.

17 MR. BLOOM: At this time, Your
18 Honor, we would offer Dr. Phillips as an expert
19 in field of Psychiatry and Forensic Psychiatry.

20 THE COURT: Would you care to
21 examine him as to his qualifications,
22 Solicitor?

23 SOLICITOR WILSON: No, sir.

24 THE COURT: Very well, he will be
25 permitted to render opinions in both of those

1 areas.

2 DIRECT EXAMINATION CONTINUED

3 BY MR. BLOOM:

4 Q. Briefly, Dr. Phillips, can you summarize
5 for us -- you used the word "forensic", what is
6 the area of Forensics and Forensic Psychiatry.
7 If you could, summarize it for us.

8 A. Forensic Psychiatry is a subspecialty of
9 Psychiatry that uses the clinic skills and
10 training of the psychiatrist in different ways.

11

12 Some forensic psychiatrists actually
13 provide treatment just as they would with any
14 other patient that they evaluate. Those
15 psychiatrists who treated others generally
16 provide those treatments in institutions like
17 the one that I referenced that I formerly
18 directed, maximum security psychiatric
19 hospitals, or they may provide treatment to
20 individuals through our detention centers,
21 jails or prisons.

22 A large number of forensic psychiatrists
23 also provide evaluation and testimony in
24 courts, just as I am doing today. They will
25 evaluate people not for the purpose of

1 treatment but for the purpose of using their
2 clinical skills to answer very specific
3 questions that have been raised by the courts,
4 via statute or by the retained attorney, that
5 may be relevant to a case, civil or criminal.

6 Q. I neglected to ask you, but you have
7 testified in courts before, pretty much all
8 over the country?

9 A. That's correct.

10 Q. And you've testified for the government or
11 for the prosecution before in cases?

12 A. Absolutely.

13 Q. In fact, one particular case, you
14 testified for the United States Government in
15 the John Hinckley case, the man who attempted
16 to assassinate President Reagan?

17 A. That's correct.

18 Q. You continue to testify for the Government
19 in that case?

20 A. That's correct. I am the Government's
21 expert in that matter.

22 Q. Did I ask you to review some records and
23 other materials in this case in reference to
24 William Dickerson, Jr.?

25 A. Yes, you did.

1 Q. Can you summarize what information that
2 you have reviewed to prepare your evaluation?

3 A. Generally speaking the records involved
4 prior treatment, family history, social
5 history, school records, records of interviews
6 with family members, with prior teachers,
7 records that would have spanned the scope of
8 his life as far back as those records were
9 recorded up to and including those records that
10 were relevant to the crime that has committed.

11 In addition, some records that involve his
12 incarceration since the commission of the act.

13 Q. Did you meet with and evaluate him on at
14 least two occasions, at my request?

15 A. I believe that it was three occasions.

16 Q. Thank you for correcting me. Let's kind
17 of start, to get to the heart of the matter,
18 what did you learn in general about William
19 Dickerson, Jr. in your field of forensic
20 psychiatry?

21 A. I learned that this was an individual who
22 had a very complicated past, who at the time
23 that I had seen him had gone through three
24 decades, essentially, of life. Those early
25 decades were marked by a number of admissions

1 to psychiatric facilities -- and I really am
2 just skipping to the heart of what I consider
3 to be the most important.

4 Q. Sure.

5 A. There were three fairly significant
6 hospitalizations that focused on behavioral and
7 psychiatric issues.

8 In his second decade of life, he spent
9 probably a great part of that decade
10 institutionalize in a correctional facility.
11 In the third decade of life, he has engaged in
12 activities that I would summarize as being
13 fairly typical of someone who is spiraling
14 downward and out of control, bringing us right
15 up to the events that constituted the event.

16 Q. All right. You marked three areas of his
17 life and I would like to walk through with you,
18 if I may, what significant findings that you
19 made as a forensics psychiatrist in each of
20 those.

21 A. Okay.

22 Q. If we would start, I think referenced the
23 first area that you felt was important was his
24 three hospitalizations in the early decade of
25 his life. What significance did you find as a

1 forensics psychiatrist in that area?

2 A. What was most significant to me in
3 reviewing that record it that there was a
4 fairly clear indication that this was a young
5 man being reared in a toxic emotional
6 environment. There was also the presence of
7 where the family's residence was, in a
8 community that was rife with alcohol, drug use
9 and criminal conduct. It was not the most
10 ideal circumstance outside of the house or
11 inside of the house.

12 He demonstrated, as reflected in the
13 record, a fairly significant disturbance in his
14 moods that some evaluators classified as a
15 major depression.

16 Major Depression is a significant
17 illness. It is a significant illness at any
18 age, it is a profoundly significant illness in
19 children. The problem when you have a
20 diagnosis of depression in children is that
21 children are not "little adults." You cannot
22 assume or should not assume that they are going
23 to behave exactly as adults might behave when
24 depressed. Certainly they are going to have
25 some of the hallmarks signs of being sad,

1 having behavioral disturbances that may not
2 reflect the way in which they would behave
3 routinely. Children also have a very difficult
4 time articulating what it is that they are
5 experiencing. So there are a number of
6 difference that set apart childhood depression
7 from adult depression.

8 It is significant, however, most
9 significant that a Major Depression when
10 diagnosed in a child, in this child there is
11 also indications that he has suicidal thoughts.

12 Q. Let's talk about that for a minute. Of
13 course, we've heard testimony that there were
14 two admissions for two separate suicidal
15 threats.

16 A. (Affirmative nod).

17 Q. What in your opinion, as a forensics
18 psychiatrist, is significant about that in a
19 child who is eleven years of age?

20 A. Well, what it tells you is that something
21 has to be causing this. Certainly depressive
22 symptoms can arise without a social stressor.
23 Many adults are depressed because changes in
24 their brain chemistry and have all the signs
25 and symptoms of depression but one can't point

1 to a particular experience or a problem in the
2 environment that might readily be linked to
3 what it is that they are feeling.

4 In this case there are some fairly
5 significant family psychosocial stressors that
6 one can link to the expressions that this child
7 had.

8 In fact, in all of the records and
9 interviews of the clinicians involved in
10 examining him, there is a recurring theme of
11 this child not wanting to be in the home.

12 Q. Why do think that is significant or why
13 should we care about that? As a forensic
14 psychiatrist, ---

15 A. It's significant because it tells me that
16 there is something about that home environment
17 that is interfering with the normal development
18 of this child in significant ways. It is not
19 normal -- for example, when he is readmitted to
20 the Hall Institute it is not normal for someone
21 to say, 'if you don't readmit me to the
22 hospital, I am going to kill myself.'

23 Q. That's what he told the doctor ---

24 A. (Affirmative nod), that's what he told the
25 doctor on admission. So that -- the effect of

1 the environment, the apprehension of his return
2 to the environment is not his apprehension
3 alone. The record is fairly clear that the
4 examiners had misgiving about this child
5 returning to the home. They ---

6 Q. Tell us about that, tell us why you think
7 that is important.

8 A. It suggests that that environment is
9 problematic. It's problematic in a way that
10 may stimulate some of the issues that cause him
11 to react -- again, I am not suggesting that it
12 causes -- it's an environment in which the risk
13 factors are such that the likelihood of his
14 expressing not only these emotional problems
15 but other behavioral problems is much greater
16 when he is returned to that environment and
17 when he is not in that environment.

18 Why do I say that? If you look at the
19 record and you look at his experience, he does
20 very well when he is out of that environment
21 and not so well when returned to the
22 environment. I think that becomes most notable
23 when you look at his experience at Tara Hall
24 for two years where on an emotional and
25 behavioral way, one might say that he was

1 flourishing. He's hitting all of the
2 milestones that you would expect him to hit in
3 terms of maturation, in terms of being more
4 independent, being respectful of others and
5 showing empathy; all of the things that we like
6 to see in children of that age moving into
7 adolescence, as they come to the doorway of
8 adulthood. He's doing well, extremely well but
9 at the thought of going home or if he actually
10 does go home the aberrant behavior almost
11 instantaneously reverts.

12 Q. What does that tell you as a forensic
13 psychiatrist? Why should we be concerned about
14 that?

15 A. We should be concerned about that because
16 we do this work in order to try and give the
17 patient, the child in this case, the most
18 beneficial and optimistic chance at succeeding
19 in life. Children are like sponges. They soak
20 up what they see and they soak up the
21 environment that they're in. They are looking
22 for structure.

23 If you take a sponge and you have it in a
24 good environment, a well-structured environ-
25 ment, which is something that William seemed to

1 need with great significant, if you put that
2 sponge in that environment, they're going to
3 soak those things up and hopefully they are
4 going to wring out all those good experiences
5 in their life and go on and be productive
6 citizens.

7 However, if you put a sponge in a dirty
8 pool of water it doesn't take a rocket
9 scientist to figure out what is going to happen
10 to that sponge. It is going to absorb all the
11 dirt and all the sediment and all the things
12 that have clouded that pool of water.

13 Essentially, when you look at the records
14 it's almost as if William was the sponge and
15 the toxic environment of the home and the
16 community is that dirty pool of water. When he
17 is in a nice structured, clean pool he absorbs
18 and does well. When we put him in the dirty
19 pool, he does not do very well.

20 Q. What, if anything, important in your field
21 did you find from the doctor's recommendation,
22 urgent recommendation, about William and him
23 being returned home?

24 A. Certainly in the -- at the first admission
25 to the Hall Institute, the physician was very

1 clear that the home environment was not the
2 best place for him to return to. They had
3 great apprehension, great misgivings about
4 putting him in a dirty pool based on what they
5 have found about William. They knew from their
6 clinical experience, what we know about
7 children, where this individual was and what
8 would likely happen. Again, we frame these
9 things in terms of risks. None of us can
10 predict the future but from our experiences, we
11 know what things work and what things don't
12 work. Clearly in his case the psychiatrist was
13 very clear that this was not in his best
14 interest.

15 He was returned home and I think that it
16 wasn't more than four or five days that he
17 comes back to the Hall Institute. The record
18 even reflects the hospital suggesting that,
19 'with all respect, you didn't listen to what we
20 were telling you and now here he is again.'

21 Q. In reference to that time period, what
22 significant if any do you make, as an expert in
23 your field, as to the incident where William
24 was put out of the home by his mother, was put
25 out naked? Is that an important event in a

1 child's life?

2 A. It's important in a number of ways.

3 I have four children. Children can be very
4 frustrating at times, and do not come with
5 instruction manuals. So depending on where you
6 are in your own maturation, the challenge of
7 raising a child can be much more difficult.
8 Even if you have great experience, it can be
9 extremely difficult.

10 What it tells me is that there was a dual
11 problem. The problem is not only with
12 William's difficulty of adapting to the
13 environment but there is a problem also with
14 the mother adapting to her role as the primary
15 care giver, in dealing with him in what I'd
16 considered to be the appropriate parental way.

17 Everyone has their own method of
18 disciplining. Having a child go outside naked
19 at any age as a punishment, I would say as a
20 psychiatrist, isn't appropriate. For an
21 eleven-year-old boy who is at that stage of
22 maturation and development where body image is
23 a very important thing, it is even more
24 profoundly significant because children as they
25 are going through that stage of development are

1 very conscious of their selves. They are
2 conscious of their developing sexuality.

3 That experience, while one might look at
4 it and say 'well, how bad could it be', for the
5 individual who experiences it, it can be
6 profoundly disruptive and very psychologically
7 traumatic.

8 Q. All right. Lastly on this phase, you
9 called it his first decade or so of life, what
10 significant if any do you attach to the fact
11 that William was not exhibiting these behaviors
12 when he wasn't with his mother? They weren't
13 happening at his grandmother's home, not in the
14 community, not at school, not at Tara Hall.
15 What significant, if any, as a psychiatrist do
16 you attach to that?

17 A. Again, it tells me that the environment is
18 a source or one of the more significant
19 triggers in his life experience that tends to
20 create the greatest difficulty for him; then,
21 as a byproduct, those who surround him; when he
22 is in that home.

23 If this were someone for whom the behavior
24 were reflective of an overarching personality
25 or developmental organization, I would expect

1 to see these difficulties across the board, in
2 any environment. I would expect to see these
3 difficulties in school, I would expect to see
4 these difficulties when interacting with other
5 family members. One might expect to see them
6 in every aspect, or at the very least several
7 aspects, of his life existence. The only time
8 that we see the development of the symptoms,
9 the difficulty that he had that lead or
10 ultimately bring him to the attention of
11 clinicians is when he is in the environment of
12 his mother, at home.

13 Q. All right. Is there anything else
14 significant that you've found about that first
15 decade or so of his life before we move into
16 the second phase that you've described as his
17 mid to late teens?

18 A. There are a number of things in the record
19 if you were to look for incidents and
20 occurrences, but I think generally speaking
21 those are the highlights, those are the most
22 important things that I gleaned from my review.

23 Q. All right, sir. Let's move to that second
24 phase that you've found significant of William
25 in his mid to late teens: Could you describe

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1 some of the incidents and findings that you
2 found significant in that roughly second decade
3 of his life?

4 A. The second phase or time period, we begin
5 to see this individual moving down the wrong
6 path. We see this individual now getting to
7 more and more engage in activities that are
8 counterproductive to his functioning well in
9 society.

10 We see him engaging in activities that
11 bring him to the attention of the youth
12 authorities.

13 We see him engaging in activities for the
14 first time of using substances. In fact, his
15 substance abuse begins at around age thirteen
16 or fourteen, not long after having left the
17 structure of Tara Hall.

18 I point out the structure because one of
19 the most significant factors during this time
20 period is the marked absence of structure. He
21 is not getting the structure at home. The
22 structure that he had at Tara Hall was such that
23 it enabled him to do the things that we would
24 expect one his age to do. In the absence of
25 that structure, in the presence of the ongoing

1 emotional conflict between he and his mother --
2 and, again, I raise these issues not as a way
3 of excusing the behavior but to try to explain
4 from a psychiatric standpoint the development
5 or the rolling out of this process that we see
6 over the next eight of nine years; which really
7 is reflective of an individual who is moving in
8 the wrong direction.

9 Q. All right. What other -- any other events
10 during that mid-to-late teens that you found
11 significant, particularly in terms of when he
12 was placed in the Department of Juvenile
13 Justice, jail, for forty-five days or the
14 initial incarceration in the Department of
15 Corrections in the later teen years? What did
16 you notice when he was placed in those
17 structured environments?

18 A. Again, when in a structured environment,
19 this is not an individual that creates problems
20 for others, that causes difficulty; that there
21 is a remarkable difference in these individuals
22 when in a structured setting and a clear
23 difference when that structure is removed.

24 Q. Any other events or items that you think
25 were significant during that late teen period,

1 that second decade?

2 A. Is there something in particular that
3 you're thinking about?

4 Q. Let me ask you this in particular, then.
5 We've heard evidence of William's beginning to
6 experiment with drugs, particularly cocaine, in
7 his later teen years.

8 A. Yes.

9 Q. What significance, if any, as an expert in
10 your field do you attach to that?

11 A. Well, I mentioned that this period when he
12 began using drugs in particular, uh, he went
13 through a series of different drugs over this
14 time frame from about fourteen to eighteen.

15 He began by drinking alcohol. Beer, in
16 fact, was the drug-of-choice.

17 From that he moved to marijuana.

18 Then he began drinking cognac.

19 But in fact he reported that alcohol
20 didn't agree with him, that he didn't like the
21 taste, that if he drank too much of it that he
22 would get sick; which is something that most
23 people learn over time.

24 He then latched onto cocaine and that
25 seemed to be the drug, his drug-of-choice.

1 Cocaine and alcohol in this days were the drugs
2 that he would use most frequently.

3 At that time the usage was nowhere near
4 the usage that he ultimately gets to ten years
5 later, but that was the drug.

6 That correlates, in many ways, with some
7 of the changes in his behavior, the changes in
8 his academic performance, truancy, all of the
9 things that seemed to be involving in his life.
10 In my clinical experience, very frequently this
11 can be facilitated and was in his case
12 facilitated not only by the absence of
13 structure but his increased use of substances.

14 Q. As an expert in your field, is it any
15 surprise that William ended up in illegal
16 activity and drug use based on those first ten
17 years, the information that has already been
18 testified to about those first ten years?

19 A. It certainly is not a surprise,
20 particularly in the context of my suggesting
21 that he is was in an environment for which the
22 risk factors are very high; in terms of what he
23 was exposed to, where he is, what coping skills
24 that he had and what may be driving it. So
25 certainly it doesn't surprise me. In fact, the

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1 record reflects exactly that.

2 Q. All right. In that time period from which
3 he returns to his community after having spent
4 approximately nine years in the institution, he
5 comes out with a resolve to do well. His
6 intent is always to stay on the, quote,
7 unquote, "straight and narrow."

8 His success at doing so has been thwarted
9 along the way, but when he comes out this time
10 he is committed to it.

11 He gets a job. He has plans to continue
12 work. He received some training as a welder
13 and he thought that he could find employment in
14 that area. That did not happen, but it didn't
15 stop him from finding work. He works for a
16 while in a restaurant and then subsequently got
17 a job at a hotel. He didn't have
18 transportation, so he walked every day to work.
19 There are indications of someone who is
20 committed to move in the right direction.

21 But it doesn't take very long for him, for
22 whatever reasons, for him to begin to shift
23 away from that commitment and once again
24 becomes involved in the use and abuse of
25 substances.

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1 The strife that exists between he and
2 mother still maintains itself. He really does
3 not have a place to live when he came out. His
4 mother allowed him to stay there but made it
5 clear that it could not be for long. She had
6 recently remarried. In fact, he would have to
7 sit on the stoop if he got home before she did
8 because he was not allowed to have a key to
9 enter the residence.

10 These things are not very reassuring of
11 bolstering to one's own self-image. But,
12 nonetheless, he continue to try.

13 He ended up living for a brief period of
14 time with his grandmother, his aunt, and even a
15 cousin of his who really serves as a mentor,
16 who he is able to relate to and talk about his
17 hopes and his dreams.

18 But he then -- he also made the
19 acquaintance of a young woman who herself was
20 hardworking and trying to better herself. That
21 relationship, however, was abandoned in favor
22 of a relationship with another person, who
23 family members describe and he, I think after
24 the fact, recognized may not have been person
25 for him to connect with. Through that

1 relationship, a relationship in which there was
2 heavy use ---

3 Q. You're talking about Shelley Nelson?

4 A. Yes, I am.

5 Q. Go ahead.

6 A. It was a relationship in which the use of
7 marijuana and cocaine was free and constant.
8 This began the process of his spiraling down.

9 Q. Now, Doctor, did you -- in your review of
10 the records in this case, as well as your
11 evaluations of William, come to a diagnosis or
12 conclusion about his condition at the time of
13 the incident around March 7th or 8th, 2006?

14 A. Yes.

15 Q. What is that?

16 A. I believe that Mr. Dickerson, throughout
17 the timeframe, and his heavy abuse of cocaine
18 began to develop psychotic symptoms that
19 culminated in what I would diagnose as a
20 cocaine psychosis.

21 Q. Can you explain, first off, what you mean
22 by the word "psychosis"?

23 A. Psychosis is a disturbance of thought
24 and/or mood that is generally seen in
25 individuals who are manifesting significant

1 psychiatric symptoms. Significant symptoms
2 that are most frequently manifested of
3 psychosis are delusions, that is fixed false
4 beliefs that can't be shook when you're
5 confronted with reality. Simply put, their
6 belief system tends to be very unique and only
7 ascribes to them, because the rest of us see
8 the world quite differently.

9 Hallucinations are often seen in
10 individuals who are psychotic. They either
11 hear voices or see things that aren't there.

12 They may experience the symptom of
13 paranoia, a sense that people are out to harm
14 them to "get them", that they are being
15 followed.

16 In fact, people who abuse cocaine and
17 suffer from cocaine psychosis, one of the
18 hallmarks typically is paranoia. It's a very
19 common finding in individuals who are evolving
20 to the state of cocaine psychosis. The
21 paranoia is profound. The paranoia generally
22 involves a sense that harm is going to come to
23 them. They become very jittery, they are
24 simply demonstrating a fairly intent reason
25 emotionally that is brought about by the

1 substance.

2 Q. Doctor, did you rely on and will it help
3 you explain your findings as to a chart
4 prepared by Dr. Morton in this case?

5 A. Yes, I think the chart does a nice job, in
6 very short order, of giving one a handle on
7 what many people are saying about the changes
8 in his behavior during that timeframe.

9 MR. BLOOM: At this time, Your
10 Honor, we would move Defendant's Exhibit 25
11 into evidence.

12 THE COURT: Any objection?

13 SOLICITOR WILSON: Yes, sir, Your
14 Honor.

15 THE COURT: What is the basis of
16 your objection?

17 SOLICITOR WILSON: Hearsay.

18 THE COURT: This is a chart that was
19 basically, as I understand, a summary of the
20 testimony, as I recall, of a witness who has
21 previously testified. It simply is used for
22 the purpose of demonstrating testimony.
23 I don't have any problem with him using the
24 chart. The concern that I would have is that
25 is really testimony that is going back, so it

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1 is ---

2 MR. BLOOM: May I use it as
3 demonstrative, Your Honor?

4 SOLICITOR WILSON: No objection to
5 that.

6 THE COURT: You may use it for
7 demonstrative purposes but it is not admitted.

8 DIRECT EXAMINATION CONTINUED

9 BY MR. BLOOM:

10 Q. Dr. Phillips, how does this information
11 help you in terms of reaching your conclusions
12 and diagnosis?

13 A. Again, without repeating what is on the
14 chart, just to graphically use it as a way of
15 showing what is happening on this timeline, Mr.
16 Dickerson's behaviors are changing. They are
17 changing very significantly. The changes are
18 beginning to show that emotionally he is
19 behaving in ways that heretofore he had not
20 behaved.

21 His behavior is jittery.

22 His behavior is -- from a physical
23 standpoint, he is unkempt. This is an
24 individual who prides himself on his
25 appearance, who did his best to look as neat as

1 possible and now is is disheveled. There is
2 some question whether or not he is even
3 attending to the basic functions of body
4 hygiene.

5 He is beginning at this timeline emerges
6 to demonstrate signs of paranoia. The most
7 profound example of this is the belief system
8 that he has that someone is out to get him. He
9 is beginning to think that there are message,
10 that there are special messages on his cell
11 phone in the form of videos that have a
12 particular implication for him and his
13 relationship with his girlfriend. It becomes
14 even more involved and complicated in terms of
15 his perception.

16 That's the key here. It really doesn't
17 matter what was on the cell phone. It doesn't
18 matter if there was something there, it doesn't
19 matter if what was on the cell phone is the
20 same as what everyone saw or remembered. What
21 is important is his perception of what was on
22 the cell phone and his perception suggests that
23 the video that was present, as an example, is
24 indicative of acts that are occurring that are
25 meant to demean him. It is all about him.

1 It's all about how this affect his world view,
2 his view of himself.

3 Q. That is the psychosis?

4 A. (Affirmative nod), that's the psychosis.

5 That is the paranoia.

6 That is the delusion.

7 Q. All right. When you say the delusion is
8 all about him, can you explain for us -- is
9 that just a normal mental state? I mean, I may
10 want something to be all about me, too. Or is
11 this a substantially impaired, changed mental
12 state?

13 A. When I say it is all about him, I don't
14 mean all about him as what some would
15 clinically described as narcissi. When people
16 use that term, they are talking about someone
17 for whom the sun rises and sets on the bridge
18 of their nose. That's not what I mean when I
19 say it is all about him.

20 It is really all about his perception of
21 what is going on. His perception, for example,
22 that this is a video of his girlfriend having
23 sex with someone else. In a way, that strikes
24 at the heart of his manhood. It is all about
25 him to the extent that it is belief that

1 another video is taken that shows a child
2 trying to wake him and to him that means that
3 the person is demonstrating that she can get
4 close to him without his knowledge. From that,
5 the next thought is that 'maybe the person is
6 going to do harm to me.'

7 Ultimately that is the driving force of
8 the paranoia. We frequently see individuals
9 who have used cocaine at this level, that the
10 paranoia evolves to an extent that they are
11 always at-risk for personal harm.

12 Q. So what you're saying, if I understand
13 correctly, it's all about his beliefs?

14 A. That's correct.

15 Q. All about his hallucinations?

16 A. That's correct.

17 Q. All about his paranoia?

18 A. That's correct.

19 Q. That was induced from really the excessive
20 use of cocaine?

21 A. That is my belief, yes.

22 Q. All right. Why isn't that his cocaine use
23 in Defendant's Exhibit 25, that has been
24 testified to, isn't volitional? 'I can choose
25 to use cocaine or not.'

1 A. Well, volitional is a legal term, not a
2 clinical term. Let me answer in this fashion:
3 Certainly at the very early stages he makes the
4 choice. The more one uses cocaine, it is a
5 rapidly addictive substance and it does not
6 take very long before we move clinically from
7 what one would say is a free choice to a choice
8 that is incumbent by an addiction, a desire to
9 continue to use.

10 So on the face, someone could say yes that
11 it is a choice, that he took the drug, that he
12 chose to do that. He could have chosen not to
13 do it.

14 Well, he could have chosen not to do it,
15 but the likelihood of exercising that choice
16 diminishes at an exponential rate once one
17 becomes addicted to this substance. Not only
18 do we know this from human behavior but the
19 studies in animals confirm the powerfully
20 addicting nature of this drug, to the extent
21 that people, as well as laboratory animals,
22 will forego everything: food, sex, any other
23 human necessity to get the drug into their
24 body.

25 Q. Let me interrupt here for a minute because

1 there is ample testimony in the record in that
2 regard. Thank you for your answer.

3 If I can direct your attention next to the
4 following question: Do you have an opinion to
5 a reasonable degree of certainly in your field
6 of Forensic Psychiatry that at the time of the
7 incident, March 7th through 8th of 2006, that
8 William Dickerson has under the influence of
9 mental or emotional disturbance?

10 A. Yes, I do.

11 Q. All right. If you could, please explain
12 what that opinion is.

13 A. I believe that he was experiencing a
14 cocaine psychosis and, as such, he was affected
15 by a mental disturbance.

16 Q. Do you have an opinion to a reasonable
17 degree of certainty in your field of Forensic
18 Psychiatry that, again on the same date,
19 William Dickerson -- that his capacity to
20 conform his conduct to the requirements of law
21 was substantially impaired?

22 A. It is my opinion, to a reasonable degree
23 of medical and psychiatric certainty, that as a
24 result of his cocaine psychosis that his
25 capacity to conform his behaviors was

1 substantially impaired.

2 Q. Do you have an opinion to a reasonable
3 degree to Forensic Psychiatry that his mental
4 state or mentality at the time of the crime was
5 also impaired?

6 A. Again, it is my opinion within a
7 reasonable degree of medical and psychiatric
8 certainty that as a result of cocaine
9 psychosis, that his mentality was impaired.

10 MR. BLOOM: Thank you. Please
11 answer any questions that the Solicitor may
12 have.

13 THE COURT: You may cross examine,
14 Solicitor.

15 BRUCE DURANT: Thank you, Your
16 Honor.

17 THE COURT: Yes, sir.

18 CROSS EXAMINATION

19 BY BRUCE DURANT:

20 Q. Good afternoon, Dr. Phillips.

21 A. Good afternoon, Mr. Solicitor.

22 Q. Welcome to South Carolina.

23 A. It's a pleasure to be here.

24 Q. You're lucky, you missed the best part of
25 pollen season. I think that's already passed.

1 A. My nose would not know the difference.

2 Q. I would like to start out with the report
3 that you wrote, and thanks for doing that, sir.
4 I believe in your report that you stated all
5 the sources of information that you considered
6 in arriving at your opinions here today.

7 A. Yes, sir.

8 Q. I just wanted to go over a couple of
9 things with it. Number one, there is no
10 question, based upon your examination of the
11 Defendant and the records, that he is in the
12 average range of intellectual functioning; is
13 that correct?

14 A. That's correct.

15 Q. That he does not demonstrate any deficits
16 in his adaptive functioning ---

17 A. Correct.

18 Q. --- that would render his less effective
19 in meeting the standards expected of a person?

20 A. That is correct.

21 Q. There's no evidence that he suffers from
22 any mental or emotional condition, correct?

23 A. That would ---

24 Q. At the current time?

25 A. Right, but that would impair his -- that

1 sentence, if you're referring to the report,

2 that ---

3 Q. (Reading): "It impairs his capacity to
4 meet the tasks of day-to-day living."

5 A. Correct.

6 Q. Okay. That he does not suffer from any
7 mental or emotional disorder that would impair
8 his decision-making capacity; correct?

9 A. Correct.

10 Q. Or that would require psychiatric
11 treatment?

12 A. Correct.

13 Q. In fact, he is not getting any psychiatric
14 treatment. Correct?

15 A. That's correct.

16 Q. In fact, is is not getting any psychiatric
17 medication?

18 A. That's correct.

19 Q. That there was insufficient clinical
20 evidence of a learning disability?

21 A. Yes.

22 Q. That he was competent to stand trial?

23 A. Yes.

24 Q. That means that he basically knows what is
25 going on here, who the lawyers are, who the

1 judge is, the jury is, all that kind of stuff;
2 is that correct?

3 A. That's correct.

4 Q. And that is does not meet the standard for
5 ---

6 MR. BLOOM: Judge, I am going to
7 object at this point. If we may approach?

8 THE COURT: Yes.

9 (OFF RECORD BENCH CONFERENCE)

10 CROSS EXAMINATION CONTINUED

11 BY BRUCE DURANT:

12 Q. Based on your examination, when he killed
13 Gerard Roper, did he know what he was doing?

14 A. That is a more complicated question than
15 it might appear on its face. I am not sure how
16 to answer that question, either in terms of the
17 statute or whatever restrictions are being
18 placed on addressing that ultimate question, --
19 perhaps you could give me some guidance.

20 Q. Did he know what he was doing? Was it a
21 volitional act? What he did to Gerard Roper
22 for a period of twenty-four hours?

23 A. If you want me to answer that question in
24 terms of the volitional aspect of it, I would
25 say that it was not volitional because it was

1 encumbered by the cocaine psychosis. So his
2 decision was not free.

3 Q. But did he know what he was doing?

4 A. I think he knew if we define the word
5 "know" that he's in the room with this
6 individual, he's engaging in conduct for which
7 there may be a consequence. My answer to that
8 question would be 'yes'.

9 Q. So he knew what he was doing was wrong?

10 A. I don't think that there's a question that
11 he would have known what he was doing was wrong
12 based on his behaviors after the event.

13 As a forensic psychiatrist, when I look at
14 any criminal conduct it fairly -- very few of
15 us are ever present when a crime is committed,
16 so it's always a retrospective analysis. In
17 this context, the fact that he committed this
18 act and then engaged in activities that one
19 would say tried to distance him from the act
20 -- cleaning up the scene, if that occurred, and
21 things of that nature, -- one can and must at
22 least acknowledge that if in fact he engaged in
23 those activities that it would be a reflection
24 of his knowledge.

25 I say if he engaged because clearly the

1 jury has made the determination but in my
2 evaluation and in conversations with others, he
3 has always maintained that he did not do it.

4 Q. Well, wouldn't those issues that you
5 raised, his flight, would that not indicate
6 that he knew what he did and he knew what he
7 did was wrong?

8 A. I'm sorry?

9 Q. Would the same things that you just
10 pointed out not indicate that he knew what he'd
11 done and that he knew what he'd done was wrong?

12 A. Again, I said if he engaged in these acts,
13 which at this state of the proceeding it is a
14 given, ---

15 Q. That's correct.

16 A. --- his actions in the aftermath would
17 indicate to me that indeed he knew that the
18 acts that were engaged in were wrong.

19 Q. Which would mean that he knew what he was
20 doing.

21 THE COURT: He's answered the
22 question.

23 MR. BLOOM: Your Honor, I object.

24 THE COURT: He's answered the
25 question, Mr. Durant. Very clearly.

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1 BRUCE DURANT: Okay.

2 CROSS EXAMINATION CONTINUED

3 BY BRUCE DURANT:

4 Q. In going back a little bit to what you
5 were talking about in terms of his upbringing,

6 ---

7 A. Yes, sir.

8 Q. --- he'd had difficulties at home. You
9 testified about that.

10 A. Yes.

11 Q. Difficult in the neighborhood. Is that
12 correct?

13 A. Yes.

14 Q. Now, -- and you've discussed the diagnosis
15 that he got at the Medical University for major
16 depression?

17 A. Yes.

18 Q. That was by a psychiatric resident; is
19 that correct?

20 A. Yes.

21 Q. Then from there he went to William S. Hall
22 and was seen by a full-fledged psychiatrist who
23 did not diagnose him as having major
24 depression; is that correct?

25 A. Yes.

1 Q. He was up at William S. Hall for a period
2 of four to six weeks or something like that,
3 maybe not that long.

4 A. Twenty-eight days and then another ten or
5 twelve.

6 Q. Right. Then he returned, correct? After
7 four days, I believe.

8 A. Yes.

9 Q. Is that when you were saying that he was
10 going to kill himself unless he got back to the
11 hospital?

12 A. Yes.

13 Q. Has there ever been any evidence in the
14 record that he's ever actually attempted
15 suicide?

16 A. When he sat on the window sill of the
17 second story threatening to jump, examiners
18 took that seriously -- as they should in any
19 child who threatens.

20 He also made threats that he was going to
21 take a knife and harm himself and harm his
22 mother.

23 We look -- in the work that we do, both
24 clinically and in the work that I do in
25 Intelligence, we take threats very seriously.

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1 There is a difference between ideation or
2 thoughts about harming yourself and expressions
3 to do so.

4 There is no record of him jumping from a
5 window. There is no record of him taking a
6 knife and cutting himself or cutting someone
7 else but there is a record of entertaining that
8 notion, and that this individual was showing
9 significant progressive symptoms.

10 Q. And is it not safe to say, sir, that the
11 same records indicate that that was no real
12 concern by the time that he was discharged?

13 A. Generally we like to think that after
14 spending time with us in the hospital that
15 those concerns do cease. Otherwise, we don't
16 let you out.

17 Q. And is it true that he has never tried to
18 commit suicide, to your knowledge or to
19 anyone's knowledge?

20 A. Well, again it depends on how you're
21 defining that.

22 Q. I am defining it as someone who tries to
23 slash their wrist or take an overdose or ---

24 MR. BLOOM: Judge, I would object.

25 THE COURT: Overruled. He's

1 explained it, I'll allow the question.

2 THE WITNESS: As I previously
3 stated, he has never cut himself or jumped or
4 committed an act beyond the ideation and talk
5 about it. There is no evidence in the record
6 that he had done any more.

7 CROSS EXAMINATION CONTINUED

8 BY BRUCE DURANT:

9 Q. Because, as you said, it's all about him?

10 A. No. At this time it's because that's
11 where he was. The fact that someone does not
12 act on those thoughts does not in any way
13 minimize the severity of their illness, so that
14 those that do act and those that don't may have
15 the same degree of psychiatric illness. The
16 factors that determine whether or not someone
17 carries those ideations through fruition are
18 multifold. In his case, intervention occurred
19 in a timely enough fashion so that nothing did
20 happen.

21 Q. Does the record indicate that he was
22 manipulative?

23 A. In what way?

24 Q. Well, particularly in the -- did you read
25 the record concerning his stay at William S.

1 Hall the first time?

2 A. Yes.

3 Q. Including the notes?

4 A. Yes.

5 Q. And about how he got to play Nintendo, go

6 to the movies, ---

7 MR. BLOOM: Objection.

8 THE COURT: Overruled. What's the

9 basis of ---

10 MR. BLOOM: Relevance.

11 THE COURT: Overruled.

12 CROSS EXAMINATION CONTINUED

13 BY BRUCE DURANT:

14 Q. --- skating, and things of this nature

15 while he was at William S. Hall?

16 A. Yes.

17 Q. And shortly after he returned home, then

18 he showed up back, saying that he was going to

19 kill himself unless he could come back to the

20 hospital; is that correct?

21 A. I have to pause for a moment. I am trying

22 to remember if that was inbetween the two

23 William S. Hall admissions as opposed to the

24 Medical University admission and the first Hall

25 admission.

1 Q. The Medical University admission occurred
2 immediately preceding going to Hall. He went
3 to Hall, was out for four days and went back.

4 A. He actually did not go directly. He went
5 home.

6 Q. I understand that.

7 A. This is an important part. He went home
8 from the Medical University and, in fact, he
9 was scheduled to be seen as an outpatient by
10 the examiner that had treated him at the
11 Medical University. He went home with
12 instructions to receive antidepressant
13 medication. His mother also was supposed to
14 begin a course of antidepressant medication and
15 she was supposed to bring him to the outpatient
16 clinic for treatment, which never happened.
17 Subsequent to that he went into the Hall
18 Institute.

19 Q. Where he got to go skating, go on picnics,
20 play Nintendo and do all the other things that
21 he was not able to do in his underprivileged
22 home in his underprivileged neighborhood?

23 A. You can certainly attempt to characterize
24 his hospitalization because any child or
25 adolescent, all of those things are made

1 available but that is not what people come to
2 the hospital for, that is not what we have them
3 there for. It makes light of the seriousness
4 of the illness and the profound clinical
5 challenges to try the underlying phenomenon.

6 If I were to suggest that you walk into a
7 cancer unit on a medical ward, you might not
8 find access to skating privileges but you'll
9 find all sorts of things appropriate for
10 children, because what we're trying to do
11 whether you're treating the mind or treating
12 the body is to create a warm, nurturing,
13 comfortable environment where children will
14 engaged and through that engagement you'll be
15 able to provide treatment.

16 So I would reject the notion or the
17 characterization that the reason that he wanted
18 to go into the hospital was because he wanted
19 to play Nintendo. He wanted to go in the
20 hospital because he wanted to get away from his
21 mother.

22 Q. In your opinion?

23 A. In my opinion and in the opinion of the
24 people who treated him.

25 Q. But the record also indicates that he was

1 manipulative?

2 A. Manipulative to the extent that being in
3 the hospital was getting out of being home. If
4 being home is emotionally and environ-mentally
5 toxic and creating problems for you, that
6 adaptation is exactly what we would see
7 -- certainly we would rather see someone like
8 that in the hospital than jumping off of that
9 ledge.

10 Q. Let's move on, Doctor. So he killed
11 Gerard Roper and tortured him for a period of a
12 day because of cocaine psychosis?

13 A. I think people who kill do so for numerous
14 reasons. I believe that at the time that he
15 committed those acts that there's no question
16 that he was under the influence of this
17 substance, based on all the information that we
18 have.

19 Q. And you are attributing his behavior to
20 cocaine psychosis?

21 A. I am attributing his mental state to
22 having been altered by the use of these
23 substances.

24 Q. And when did the onset of cocaine
25 psychosis begin?

1 A. I think that the psychosis began a few
2 days prior to the event. When he began
3 demonstrating signs and symptoms of intense
4 paranoia, believing that people were out to get
5 him, believing that people were following him,
6 believing that he saw individuals at the
7 dumpster who were ultimately going to come and
8 kill him, believing that things on his cell
9 phone had special meaning to him -- if they
10 were there or not. I think we see the signs of
11 an evolving break with reality in terms of that
12 kind of psychotic thinking up to, including and
13 through the incident event.

14 Q. Isn't it true, Doctor, that he
15 demonstrated significant acts of aggression in
16 his life prior to this cocaine psychosis?

17 A. There are certainly examples of aggressive
18 behavior. Yes.

19 Q. Such as when he was seventeen and he was
20 robbing people at gunpoint in the park,
21 shooting them and pistol-whipping them?

22 A. That's not quite the characterization that
23 I remember, but there's no question at age
24 seventeen he was charged with engaging in that
25 kind of criminal conduct.

1 Q. Such as when he was nineteen and he put
2 the pistol to the police officer's head and
3 pulled the trigger, and it misfired?

4 A. The records that I reviewed said nothing
5 about him pulling a trigger, misfiring. The
6 records that I reviewed simply said that he
7 brandished the weapon. That information, as I
8 understand it, only was recently testified to.
9 I must say that in all my years of doing
10 criminal work that I -- I'm surprised that that
11 bit of information didn't appear in any report
12 prior to testimony in this courtroom.

13 Q. When at his parole hearing he told the
14 parole officer that he wished that he had shot
15 the police officer?

16 A. People say a number of things. He
17 certainly said that.

18 Q. So it would appear, based on the record,
19 that his problems with violence predates his
20 cocaine psychosis?

21 A. It would appear that there are prior
22 episodes in which he has engaged in acts, just
23 as you've described, just as in his prior
24 record there are demonstrations of behaviors
25 that are consistent with someone who shows

1 caring, empathy, an attempt to help others.

2 There are a number of things described in the
3 records, but there is no question that this
4 issues that you've pointed it are indeed a part
5 of his history.

6 Q. With regard to the cocaine psychosis,
7 specifically the paranoia and the thought that
8 someone was out to get him, have you read the
9 actual file concerning what he did to Gerard
10 Roper?

11 A. Yes.

12 Q. Is it true that he had Gerard Roper in the
13 confines of his brother's house?

14 A. That is true.

15 Q. That Gerard Roper was pretty much
16 physically incapacitated from the time he came
17 in that house?

18 A. That is what has been testified to in the
19 record, yes.

20 Q. And that over a period of twenty-four
21 hours he burned his scrotum, sodomized him with
22 a gun, tortured him and beat him to death. Can
23 you explain to this jury what it was about
24 Gerard Roper that made him paranoia under those
25 circumstances?

1 A. These acts were reprehensible. I don't
2 make any attempt to dispute these acts, I only
3 try to understand them as a psychiatrist. To
4 the best of my knowledge in examining this
5 record and in examining the accused, his belief
6 is driven, is altered and impaired by this
7 psychosis. It was his belief that Gerard Roper
8 somehow posed a threat to him. It was in his
9 mind. I didn't put it there. I can explain it
10 only in the context that people who suffered
11 from this form of delusional psychosis, as a
12 result of profound substance abuse, have all
13 sorts of crazy notions in their head. I
14 apologize for using that term but the reality
15 is that's what was in his head.

16 Q. So what you're saying is that it makes no
17 difference?

18 A. I did not say that, I did not say that at
19 all. If you ask, as I have been, very clear
20 questions as to whether or not his mentality
21 was affected at the time of this offense, if
22 you've asking me if at the time of this offense
23 he suffered from a mental illness of disease
24 that impacted on his abilities to make
25 decision, if you're asking me whether or not as

1 a result of his cocaine psychosis he could
2 conform his behavior to the requirements of the
3 law, my answer is no, he could not because of
4 that use.

5 If you are asking me if you killed Gerard
6 Roper because of the cocaine, I answer that
7 question in that manner.

8 Q. I understand, sir, and I understand that's
9 your opinion; that it is a psychiatric opinion,
10 is that correct?

11 A. That's correct.

12 Q. And that's based on your review of the
13 records?

14 A. My review of -- everything that I referred
15 to in the report, including my examination of
16 Mr. Dickerson.

17 Q. What is sensitization?

18 A. Sensitization?

19 Q. As it relates to cocaine psychosis?

20 A. Sensitization in the context of cocaine
21 psychosis -- if we're talking about a
22 pharmacological setting, is what happens at the
23 level of the neurons. There are substances
24 that get released in the brain that allow us to
25 modulate behaviors. There is one substance

1 that is released when one is using this drug,
2 dopamine. The neurons become sensitized in
3 such a way that there is more dopamine
4 available at that area of the brain than is
5 absolutely necessary. It is true that with
6 excessive dopamine that we begin to see the
7 changes in behavior.

8 Q. What happens when he does cocaine again?

9 A. Pardon?

10 Q. What happens when he does cocaine again?

11 A. A number of things can happen. Some
12 individuals develop a tolerance and it requires
13 more of the substance in order to reach the
14 euphoric feeling. Others, because of the
15 sensitivity of the neurons will very readily
16 begin to exhibit the changes in behavior.
17 There are some idiosyncratic behavior that is
18 associated with it, some uniqueness to every
19 one's brain chemistry but ultimately the final
20 common pathway is that we see the changes in
21 behavior that are consistent with toxicity as a
22 result of the substance.

23 Q. What happens when he gets cocaine in
24 prison?

25 A. Well, again, all of these things are a

1 function of quantity and amount. You know,
2 when you say 'what happens', are you asking me
3 what happens in terms of the worst case
4 scenario or asking me what happens on the level
5 of brain chemistry?

6 Q. I asking -- I mean, is that a potential
7 concern if he -- as I understand it, you're
8 saying that what he did was as a result of
9 cocaine psychosis. What happens if he gets
10 more cocaine?

11 A. Well, you don't just get to a cocaine
12 psychosis just simply by having a single
13 recreational use. We're talking about the
14 cumulative effect of a fairly significant abuse
15 of this substance. So unless the security at
16 the prison is so coarse, you would expect that
17 he would have access to industrial quantities
18 of cocaine, which is essentially what he was
19 abusing at the time. Even if he were to have
20 access to illicit cocaine, it would not be my
21 expectation that we would see anything remotely
22 similar to his behavior because his behavior
23 was a byproduct, a revolving process of using a
24 significant amount on a daily basis.

25 Q. But, once again, he has significant

1 violence in his history before this cocaine
2 psychosis?

3 A. Are you changing topics? I've already
4 answers that question. Yes. That's correct.

5 BRUCE DURANT: Thank you.

6 THE COURT: Redirect?

7 MR. BLOOM: No redirect, Your Honor.

8 THE COURT: Do you wish the witness
9 to be excused?

10 MR. BLOOM: Please, Your Honor.

11 THE COURT: Any objection?

12 BRUCE DURANT: No, sir.

13 (WITNESS STEPS DOWN)

14 THE COURT: At this point, Ladies
15 and Gentlemen, let's take a break for about ten
16 to fifteen minutes. You may go to the jury
17 room. Don't begin your deliberations.

18 (JURY OUT @ 3:52 P.M.)

19 THE COURT: Anything from the
20 defense before recessing?

21 MR. BLOOM: Nothing, Your Honor.

22 THE COURT: Anything from the State
23 before recessing?

24 BRUCE DURANT: No, sir.

25 (BRIEF RECESS)

1 (DEFENDANT PRESENT)

2 THE COURT:

3 (Jury in @ 4:12 p.m.)

4 THE COURT: Thank you very much,
5 Ladies and Gentlemen. We are ready to
6 continue. Call your next witness, please.

7 MR. BLOOM: Dr. Mark Cunningham.

8 (WITNESS TAKES STAND)

9 MARK CUNNINGHAM, being duly sworn
10 to tell the truth, the whole truth and nothing
11 but the truth, testified, as follows:

12 DIRECT EXAMINATION

13 BY MR. BLOOM:

14 Q. Dr. Cunningham, good afternoon, sir. Can
15 you tell me, what is your area of expertise?

16 A. I am a clinical and forensic psychologist
17 and also an independent research scientist, and
18 I'm in private practice.

19 Q. All right. What is a clinical
20 psychologist?

21 A. Clinical psychology is what you would
22 expect a psychologist to do in terms of
23 evaluating and treating psychological
24 disorders.

25 Q. All right. You also said that you're a

1 scientist in your field.

2 A. (Affirmative nod).

3 Q. Do you do research in the area of
4 psychology?

5 A. Yes, sir, I do.

6 Q. Why is that important?

7 A. That's a part of my identity as a
8 scientist and a professional, to not only
9 practice but also to do research and contribute
10 to the body of knowledge of Psychology. With
11 some colleagues, although I do some
12 scholarships independently, we do large scale
13 studies particularly focusing on prison
14 inmates, on rates of violence in prisons,
15 factors that are predictive of violence in
16 prisons, capital inmates, death sentence
17 inmates, standards of evaluation in capital
18 sentencing, research that is relevant to
19 considerations of mitigation or how we got here
20 -- such as are being considered today.

21 Q. How long have you been practicing in your
22 field?

23 A. I've been practicing for thirty years and
24 have been pretty heavily involved in doing
25 research for about the last ten or eleven

1 years.

2 Q. Are you board-certified in your field?

3 A. Yes, sir, I am. I am Board-certified in
4 Clinical Psychology, and I am also Board-
5 certified in Forensic Psychology.

6 Q. About how many times have you been
7 qualified as an expert in various courts in the
8 field of Clinical Psychology and Forensic
9 Psychology?

10 A. Over two hundred and fifty times.

11 Q. Do you hold any particular awards in your
12 field?

13 A. Yes, sir, I do.

14 Q. What are those?

15 A. In 2005, I was given the Texas Psycho-
16 logical Association's Award for Outstanding
17 Contributions to Science, for having made a
18 substantial contribution to the body of
19 knowledge in Psychology.

20 Q. How many people receive that Award
21 annually?

22 A. That is given to a single psychologist
23 each year. In 2006, I was awarded the American
24 Psychological Association's Award for
25 Distinguished Contribution to Research and

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1 Public Policy, which is research that form
2 issues that are important to legislative
3 bodies, to the courts, the public in general.
4 Again, that is an annual Award that is given to
5 a single psychologist.

6 Q. All right, sir. Generally, what is your
7 background in your field concerning your
8 education and other experience? If you could,
9 summarize that for the jury.

10 A. Yes, sir. I received my undergraduate
11 degree with a major in Psychology and also in
12 Mass Communications from Allen (phonetic)
13 Christian Collage.

14 I attended graduate school at Oklahoma
15 State University in a doctoral training program
16 that is accredited by the American
17 Psychological Association and have received
18 both my master's and Ph.D. in Clinical
19 Psychology.

20 I did a one-year Clinical Psychology
21 internship at the National Naval Medical Center
22 in Bethesda, Maryland, where I was an active
23 duty naval officer and clinical psychology
24 intern.

25 Then was assigned as a staff psychologist

1 at the Naval Submarine Medical Center in New
2 London, Connecticut. At that time the
3 submarine base there in Groton was the primary
4 submarine facility for the Navy on the Atlantic
5 coast. I took a position that had formerly
6 been occupied by a psychiatrist. It was kind
7 of an experiment by the Navy to see whether a
8 psychologist could fill the role that had
9 previously been filled by a psychiatrist.
10 While there, I did two years of part-time
11 postdoctoral study at the Yale University
12 School of Medicine.

13 I left the Navy in 1981 and took a full-
14 time academic position at a small private
15 university in West Texas called Hardin-Simmons
16 University, and taught for a couple of years. I
17 also began a private practice during that same
18 time and since 1983 have exclusively been in
19 practice; initially primarily in clinical
20 service delivery, seeing a lot of patients and
21 doing consultation in hospitals and that sort
22 of thing.

23 Over time, I began to be called upon to do
24 more and more court-related evaluations,
25 forensic psychology. Forensic Psychology is

1 any way that Psychology is a science where the
2 techniques of Psychology can be helpful in some
3 issue that is before the court; all the way to
4 evaluating parenting capability in child
5 custody cases to psychological injuries in
6 civil case, or in criminal court things like
7 competency to stand trial or mental state at
8 the time of an offense, sentencing
9 determinations.

10 MR. BLOOM: At this time, Your
11 Honor, I would move to have Dr. Cunningham
12 qualified in the field of Clinical Psychology
13 and Forensic Psychology.

14 THE COURT: Do you wish to examine
15 him?

16 BRUCE DURANT: No, sir.

17 THE COURT: Very well, he will be
18 permitted to render opinions in the areas of
19 Clinical Psychology and Forensic Psychology.

20 DIRECT EXAMINATION CONTINUED

21 BY MR. BLOOM:

22 Q. Doctor, what is the difference -- if could
23 just summarize for us before we get to what you
24 did in this case, between the fields of
25 Psychiatry, that we heard Dr. Phillips testify,

1 and your field of Psychology?

2 A. Yes, sir. Both fields are focused on
3 clinical psychology, focused on abnormal
4 behavior. Psychiatry grew out of medicine as
5 physicians were called upon to treat mental
6 disorders as part of the practice of medicine.
7 It grew out of that tradition, just like
8 neurology, OB-GYN, urology and those other
9 specialities.

10 Psychology grew out of the academic
11 setting of the university as scientists there
12 were studying human behavior, including
13 disorders in human behavior.

14 So a psychologist gets a master's and
15 Ph.D. and then has specialized clinical-focused
16 training course work while he is being, or she
17 is being, trained as a scientist.

18 A psychiatrist goes to medical school, is
19 a physician who then specializes in the
20 treatment of mental disorders.

21 So they may ultimately do very similar
22 jobs. The psychiatrist can prescribe
23 medication because he's a physician. The
24 psychologist is more familiar with
25 psychological testing and maybe counseling

1 techniques and has gotten more training in
2 terms of doing research.

3 Q. All right. In this case, did I provide
4 you with records and other materials and were
5 you able to evaluate William Dickerson on one
6 occasion to come to certain conclusions and
7 diagnoses that you have for us today?

8 A. That's correct.

9 Q. All right. Did you identify certain risk
10 factors and protective factors in this case?

11 A. Yes, I did.

12 Q. Do you have slides that you are prepared
13 to show today?

14 A. Yes, I do.

15 Q. All right. When you evaluated Mr.
16 Dickerson's records for risk factors and other
17 information that you're about to give us, is
18 this related to research in your field of
19 scientific research?

20 A. Yes, sir, it is.

21 Q. It is related to his specific situation?

22 A. Yes, sir, to the extent that he is someone
23 who became involved in delinquent behaviors as
24 a teenager and went on to become involved in
25 criminality and substance abuse and violence as

1 an adult. There is a significant body of
2 research that is directed towards trying to
3 understand how does that happen? How is it
4 that some people end up into delinquency and
5 criminality and drug addiction and other people
6 don't? How do we understand that? How do we
7 understand how somebody gets to this position?

8 A focus that I had was trying to
9 understand what risk or protective factors were
10 present in William's background that would help
11 provide some explanation of that. What
12 research is there helps us understand that
13 connection between what happened to him and
14 where we ended up.

15 Q. All right. Go to the first slide that you
16 have for us. Has the U.S. Department of
17 Justice in fact come up with a model to
18 identify certain risk factors for youth later
19 engaging in certain conduct such as we have
20 heard about?

21 A. Yes, sir, they have. The U.S. Department
22 of Justice is a major sponsor of research into
23 the causes of delinquency and criminality, with
24 the idea that it is those factors that cause
25 that kind of problem for all of us. If those

1 factors can be identified, then you can develop
2 interventions in the community and family to
3 reduce the likelihood of those things
4 occurring. In other words, you deal with crime
5 by trying to prevent it from happening in the
6 first place and to keep the violence from
7 happening in the first place rather than simply
8 to lock people up after the fact.

9 Q. All right. Can you go to some of the
10 factors that the Department of Justice model
11 and research shows that are related to William?

12 A. Yes, sir, I can. This is based on
13 research that has been done over the last
14 thirty years that has identified risk factors.
15 Those are the ones that increase the likelihood
16 of delinquency and violence. And protective
17 factors, those are the things that would tend
18 to make that less likely or helps buffer the
19 effect of some of the risk factors. The
20 first set of risk factors identified in this
21 1995 study by the Department of Justice are
22 ones that are present from conception to age
23 six. I have listed all of the factors that
24 were identified by the Department of Justice
25 for that age time and I have check marks

1 besides the ones that I saw evidence of in
2 William Dickerson's life.

3 The plus/minus means that there is some
4 evidence that may be associated with that. For
5 example, the minor physical abnormality that he
6 only weight three pounds, three ounces when he
7 was born and later had some abnormal findings
8 on EKG when he was an adolescent.

9 The brain damage had to do with there
10 being -- they are associated with being that
11 premature, being that small when you are born,
12 and also his exposure to lead in his childhood.
13 That is not -- there is no testing that was
14 done that demonstrated brain damage, for
15 example, in that earlier age and that's why it
16 has a plus/minus by it.

17 Of those seven factors, conception to age
18 six, there was evidence of five of those with
19 some certainty and some evidence of two others.

20 Q. That apply to him?

21 A. (Affirmative nod), that apply to him.

22 That's correct.

23 Q. Okay.

24 A. From age six through adolescence, there is
25 another set of factors that are identified by

1 the Department of Justice. Again I've listed
2 all of them and I have check marks besides the
3 ones that were present in his life.

4 In the 1995 study, he has either all of
5 them, all of the risk factors for delinquency
6 and violence, or all but two depending on what
7 you do with those plus/minuses.

8 Q. All right. When you say "risk factors",
9 could you briefly summarize what that means?

10 A. Yes, sir. I guess that we could think
11 about this as in climbing the slope. The
12 greater the number of risk factors the more
13 angle that person's choice is on. They still
14 get a choice but the choice is made at an
15 increasing angle. Now, all of us intuitively
16 recognize that. That's why we are so careful
17 with our kids about trying to maximize the
18 protective factor and insulate them from bad
19 influences, trauma, disruption and that kind of
20 thing; because we recognize that childhood is
21 like when the concrete is wet. The things that
22 happen to you in childhood leave an indelible
23 imprint on you that lasts potentially a
24 lifetime, may even change the shape of you grow
25 into.

1 We intuitively recognize and we
2 automatically, common sense, identify 'this is
3 why this is so important.' The Justice
4 Department has actually done research to
5 identify the factors that are distorting this
6 person so that they are more likely to make
7 choices that are delinquent or drug abusive or
8 criminal in nature.

9 Q. Can you skip ahead to slide number twenty-
10 five. I would like to direct your attention to
11 that.

12 A. I may not know which one twenty-one is.
13 If you could give me the title at the top?

14 Q. Cumulative Impact.

15 A. Yes, (displaying).

16 Q. What is the cumulative impact of a youth
17 growing up, like William, who has an enormous
18 amount of these risk factors that apply to him?

19 A. What the Justice Department has found is
20 that it isn't just each risk factor in
21 isolation but it the additive effect of "A"
22 plus "B" plus "C" plus "D", with each
23 additional risk factor that you had on you're
24 steadily increasing the percentages of the
25 young men and woman, or teens, that are going

1 to end up in delinquency and violence and
2 substance abuse. It's an additive effect, it
3 is tilting that angle more and more and more as
4 you steadily add risk factors.

5 This was a finding of this extraordinary
6 study that the Department of Justice published
7 in 2000 where they brought together twenty-two
8 thousand nationally-prominent researchers. For
9 a couple of years they looked at sixty-seven
10 major studies in this area. Out of that, they
11 identified this cumulative impact as well as
12 further examining the risk factors that put
13 somebody at increasing risk for delinquency and
14 violence.

15 This time they organized it not by age but
16 by different arenas: individual factors, family
17 factors, school factors, peer factor,
18 community/ neighborhood factors. Again, I have
19 listed all of the ones that were identified by
20 the Department of Justice within each of those
21 areas and I have check marks besides the ones
22 that were present in William's life.

23 In his background, there is evidence of
24 three of the five individual factors; seven of
25 the eight family factors; -- and, by the way,

1 out beside these, this "x", like X6, those are
2 the odds ratios. That means that if that
3 factor is present it increased the likelihood
4 of delinquency and criminality sixfold,
5 independent of the additive effect of other
6 risk factors. Just that factor alone increased
7 the risk that much.

8 Q. Of the total twenty-two factors that the
9 Department of Justice researched and found that
10 poses a risk for youths later engaging in
11 illegal activities, how many did you applied to
12 William?

13 A. He had all but three on this page -- four,
14 five, -- I think that there are twenty-six risk
15 factors, total, and he have twenty or twenty-
16 one of those; a catastrophically cumulative
17 assortment of risk factors.

18 Q. Next, if you could summarize for us what
19 protective factors the Department of Justice
20 research shows that help prevent future illegal
21 conduct?

22 A. These are grouped under individual
23 characteristics. For example, the most
24 powerful factor that protects someone from
25 delinquency and criminality is being female.

1 We know just by demographics that ninety
2 percent of the inmates in prison are males.

3 It isn't that women are undamaged by what
4 happens to them as children. It's that it
5 comes out in other ways. They marry early,
6 have children early, are in relationships where
7 they are mistreated and they may be depressed,
8 anxious, substance-abusing, their life may be a
9 wreck, they may parent poorly but they don't
10 run afoul of the criminal justice system so
11 often, though.

12 If you were extremely intelligently --
13 doctor, lawyer, professional school bound.

14 If you have a great deal of rebar in the
15 concrete, the positive social temperament that
16 just means some kids, by the grace of God, get
17 more rebar in the concrete. That is why those
18 who have more than one kid may realize that
19 they were different from the moment that they
20 were born, in how hard they were and what
21 adversity they could tolerate with disruptions
22 in their schedule.

23 Social bonding, positive role models. If
24 you have a really plugged-in mama who is on
25 this kid's case, getting him up close on the

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1 porch, paying attention to who he is with,
2 directing him, structuring him. Then even if
3 you're in a high-risk situation, your mama is
4 available and onboard and that may be enough to
5 insulate you if there is a powerful enough
6 bond.

7 Healthy beliefs and clear standards for
8 behavior, particularly that are against
9 violence and promote abstinence from drugs.

10 Effective early intervention,

11 Of those protective factors, there is some
12 evidence around the early intervention. He
13 goes to Tara Hall for two years, that is a very
14 powerful and positive experience. The problem
15 is, it's too short to compensate for the risk
16 factors that are present, particularly when he
17 gets dropped right back into that same world
18 again. It's kind of like when you are
19 malnourished. You got for two years and then
20 we drop you back into the malnourishment. Even
21 on the video that we saw earlier, they say that
22 their average stay is three years. He is there
23 for two years, so it just wasn't long enough
24 and he went back into the same situation that
25 he left.

1 Q. What then in your general view, if you
2 could summarize for us, was the risk factors in
3 William's life that applied to the protective
4 factors?

5 A. There was a tremendous imbalance. We have
6 this overwhelming saturation of risk factors
7 and just a little protective factor just coming
8 out of that institutional experience. It was
9 just simply unbalanced. If I were to put on a
10 scale, it would look something like this, at
11 best, in terms of protective factors.

12 If you have a high concentration of risk
13 factors and not much in the way of protective
14 factors, the likelihood that you're going to
15 make choices that carry you into delinquency,
16 criminality and drug abuse, that's becoming
17 increasingly greater that you will make those
18 kinds of choices.

19 Alternatively, this is you would like to
20 see. This is how we are trying to raise our
21 kids, with lots of protective factors and not
22 many risk factors.

23 Now, people like this, most of them make
24 good choices. They don't often end up in
25 delinquency and criminality.

1 People who look like this are at grave
2 risk for making bad choices.

3 Choice is what you make after the scales
4 are already loaded and that's why it is
5 important to understand how were the scales
6 loaded that the choices were made from.

7 Q. Dr. Cunningham, let me just ask you, is
8 that the term that we've kind of heard, the
9 "abuse excuse"?

10 A. Not according to the U.S. Department of
11 Justice. This is their research, this is their
12 model, this is -- our best available science is
13 that we try to understand this. Nobody just
14 wakes up one day when they're twenty-two years
15 old and says, 'I think I will be a professional
16 criminal.' That's not how it happens.

17 There are a whole set of factors that have
18 been occurring, even from the point of
19 conception, that are increasingly tilting the
20 angle that are important to understand as we
21 -- particularly as someone's life is being
22 weighed.

23 Q. Can you advance to the slide regarding
24 behavior and family, community wiring.

25 Q. If you look at this Department of Justice

1 model and try to simplify it, and here's the
2 person who chooses to behave in a particular
3 way, -- that choice, though, is not made in a
4 vacuum. Instead, that involves "wiring", kind
5 of the state of the nervous system. What's
6 present in terms of how well-functioning this
7 person's brain is and what kind of heredity
8 components are there as well, interacting with
9 the family, interacting with the community.
10 That's what forms all of us, who then choose to
11 behave in a particular way.

12 What this Department of Justice model is
13 describing is that if you have faulty wiring,
14 if you grow up in a disturbed family, if you
15 are growing up in a corrupted community, then
16 your likelihood of making choices of behaving
17 in toxic way are becoming increasingly great.

18 Q. Did you in your review of the material
19 that you were provided in this case develop
20 some particular adverse developmental factors
21 or other risk factors that you found in
22 William's life regarding wiring? Let's start
23 there.

24 A. Yes, I did. The first of those was his
25 premature birth and low birth weight. He was

1 born nine to ten weeks premature, he weighed
2 three pounds, three ounces at birth and
3 remained in the hospital for the first two
4 months of his life.

5 Q. Some of that testimony we've heard. If we
6 can move forward, what are -- if you can,
7 briefly summarize what some of the long-term
8 risks are to premature birth and low birth
9 weight?

10 A. One of those is the mother/child inter-
11 action problem. When a child is born
12 premature, this seems to put at risk the
13 relationship between the mother and the baby in
14 terms of the glue that forms between them.

15 Now, in William's case, while -- at the
16 same time that he's premature in the hospital
17 for these two months, Sandra is being savagely
18 beaten by William, Senior. That is what else
19 is happening along with having a premature
20 baby. So there are some particular stressors
21 that occur in their relationship.

22 Then you can see that there are problems
23 with the physical system, with developmental
24 delays, positive (sic) problems and
25 particularly problems with the brake system,

1 what we call inhibition. At some point in the
2 record, William is described as being
3 impulsive. At Tara Hall there was a
4 psychological evaluation that talks about him
5 being impulsive and not thinking about the
6 consequences of what he does. That is a
7 description of brake failure, a taking a second
8 look. It's not as well developed as we would
9 expect for a kid his age. That's one of the
10 byproducts of being born premature, it's one of
11 the effects that it has -- lasting effects on
12 the function of the brain.

13 Q. All right. Next, you made some findings
14 regarding childhood lead exposure.

15 A. (Affirmative nod).

16 Q. Now, we've heard testimony about that but
17 if you could generally summarize, why is that a
18 risk factor as it applies to William?

19 A. Well, there is no safe lead level for a
20 child to have. It is never a vitamin.

21 What we are talking about are increasing
22 levels of problems that are associated with
23 increasing levels of lead exposure that the
24 child had.

25 Now, when William's blood was measured at

1 age eleven was at a nine. That doesn't mean
2 that it wasn't higher or lower when he was
3 lower.

4 You get some implication even with the
5 indication that that has -- this is a study
6 that looks at the relationship between
7 childhood lead exposure and adult crime. A
8 blood level of nine is right here on this
9 curve. These are odds ratios, so even with a
10 blood level of nine the child is about forty to
11 fifty percent more likely to end up in
12 criminality as an adult. Now, the dotted lines
13 show you the full range of that, which is
14 anywhere from about twice as likely down to
15 some kids that it didn't affect at all. The
16 midpoint of that is about a fifty percent
17 increased risk even at a blood level of nine.

18 There is also information that we have
19 about another child in the home, his younger
20 brother, Armon, who is about four years younger
21 than he is. He had his blood levels measured
22 much more systematically across his early
23 childhood. These show his blood levels. The
24 red dotted lines, where that ten is, right
25 here, and you see how high Armon's blood levels

1 are in the same household, around the same
2 paint chips, around the same lead dust. The
3 problem is that the paint flakes off, then it's
4 ground up and it's in a dust form in those
5 environments.

6 So it raises the implication that the
7 blood levels that William would have had at
8 earlier points in his childhood might have been
9 higher, and certainly gives some confirmation
10 to the zone of risk that he living in when we
11 talk about lead.

12 Q. Next, if you can go forward to wiring
13 number three.

14 A. The third factor was a gunshot wound to
15 the head. This occurred in May of 1996, ---

16 Q. To be fair that's when William, the record
17 reflects, pointed a firearm at the police and
18 the police responded by ---

19 A. That's correct. He was shot with a .45,
20 one through and through the left shoulder,
21 another hit him in the forehead, the right
22 forehead, and then just ran under the scalp,
23 between the scalp and the skull around the side
24 of his head and exited at his external right
25 ear, took off part of his ear.

1 Q. All right.

2 A. An indication that that not just scalp
3 effect but some cognitive effect, as well. The
4 emergency room report was that he was
5 intermittently inappropriate and confused,
6 which is an indication of there being some
7 disorientation that is occurring in response to
8 this wounding.

9 Q. Some neurological effect?

10 A. That's correct.

11 Q. All right. Next, did you attribute any
12 genetic factors to William's life that are
13 relevant for us here today?

14 A. Yes, there are two hereditary aspects.
15 One of the them is a predisposition to
16 personality and psychological disorders.
17 Personality disorders are deeply ingrained,
18 maladaptive patterns of behavior.

19 Those patterns, as well as things like
20 depression and anxiety have a very significant
21 hereditary component to them; just like heart
22 disease, cancer, or high blood pressure. It's
23 a significant aspect of who develops a
24 psychological disorder.

25 In his family, particularly when we look

1 at personality disorder related problems you
2 see some of the extraordinarily dysfunctional
3 behavior that is associated with his father and
4 with his mother, as well as his younger
5 brother, Armon, who has a different father,
6 half-brother.

7 Q. Do alcohol and drug use and later
8 substance abuse in life also have a genetic
9 part to it?

10 A. Yes, they do, and that's the fifth wiring
11 factor. The most powerful factor in who
12 becomes alcohol or drug dependent is heredity.

13 They've demonstrated this with twin
14 studies and with adoption studies. That's
15 where they follow children that were adopted
16 away at birth and what they find is that the
17 risk of alcohol or drug abuse doesn't track the
18 family that adopted them, it tracks their
19 biological family who they never met.

20 It is a metabolic vulnerability, so that
21 when they drink or drug these substances have a
22 particularly powerful effect on this person.
23 That metabolic reaction is a hereditary
24 characteristic.

25 Q. If you could move next to the parenting

1 and family category.

2 A. The first parenting and family adverse
3 factor that I identify is generational family
4 dysfunction. That's important, that
5 generational family, what happens from parents
6 to children. It is partly hereditary but there
7 are other ways that families affect the
8 children and grandchildren of those families
9 besides heredity.

10 One of the ways that that happens is the
11 phenomenon called scripts. Scripts are the
12 unwritten story of how you think your life is
13 supposed to go.

14 For example, in my clinical practice I've
15 had a sixteen-year-old girl in front of me who
16 is pregnant and unmarried, whose mother was
17 pregnant and unmarried at fifteen or sixteen.
18 Clearly something is happening here besides
19 this little girl's decision in the backseat of
20 a car. This is a story of how your life is
21 supposed to go.

22 It never occurred to me not to finish high
23 school. It never even came up on the screen
24 whether I was going to go to college.

25 That's just the story of how your life is

1 supposed to go. Those scripts can either be
2 positive or negative. There are some
3 communities where second graders, second grade
4 boys, as they are talking about growing up say,
5 'when I go to prison' like that's just an
6 automatic part of the script of what's going to
7 happen later on.

8 Modeling. Modeling is where you catch
9 yourself doing the same thing that your parent
10 did that you swore that you never would, the
11 imitating what you're around and what you're
12 seeing.

13 Sequential damage. That means that mama
14 was damaged as she was growing up. Now that
15 she's become a parent, she's doing the best
16 that she can but she goes about that in a
17 damaged way because she has been injured by her
18 own childhood. She then damages the next
19 generation, who grow up as damaged people.
20 That is how you get damage from generation to
21 generation.

22 Q. Does the research show that domestic
23 violence is also a risk factor for later
24 criminal activity?

25 A. Yes, sir. Domestic violence in the family

1 injures kids in a couple of ways. There is a
2 study by the American Psychological Association
3 that identifies that it damages as kid as much
4 to see the violence and conflict in the family
5 as it does to be physically hit themselves.

6 The idea is that the wounds on your heart are
7 slower to heal than the cuts on your skin.

8 So what you're seeing, the words that your
9 parent says to you or the violence that you see
10 between other family members has an enduring
11 wounding effect on your heart.

12 Now, in terms of its relationship to
13 violence and criminality, I think we talked
14 about that later in conjunction with that being
15 one type of violence in the family and abuse
16 may be another type.

17 Q. What is the next family factor that you
18 found that applies to William?

19 A. The next factor is his father's
20 criminality and imprisonment. He is in prison
21 for an armed robbery when William is about four
22 months old. He gets out of prison in the mid
23 1990's, commits a murder and goes back to
24 prison in about 1996 -- after he hadn't been
25 out for very long. This is a part of William's

1 identity. Whether he is around this man or
2 not, that's who your father is. Your father is
3 a criminal, he's in prison. Then later his
4 father is someone who has killed somebody.
5 That matters to all of us, who our father is.
6 It's a part of how we perceive ourselves.

7 Q. What is the next family factor you've
8 found of significant that applies in William's
9 case?

10 A. The next factor is his mother's drug
11 abuse, which was described back at the time
12 that he was making the psychiatric presentation
13 when he was eleven years old, that she was
14 abusing marijuana and cocaine.

15 Q. What's the next family factor that you
16 found that applies to William?

17 A. The next factor was his mother's
18 depression. Not only the effect that I
19 described earlier but what happened in her life
20 when he was an infant, during the very critical
21 period of bonding between mother and child is
22 supposed to be taking place, what is happening
23 in her life at the time.

24 Even later, at the time that he is being
25 evaluated in 1988 they describe that she is an

1 overwhelmed single mother and when they're
2 taking a history of his depressive symptoms,
3 she says 'I am having all of those symptoms as
4 well.' That's what Dr. Phillips who testified
5 said, that at the same time that they were
6 going to start him on antidepressants in May of
7 1988 they were also prescribing them for her as
8 well.

9 Q. Again, these factors are important
10 because, as I understand you, not only are they
11 present in William's life but the research in
12 your field, by the Department of Justice and
13 others, shows that this is what leads to later
14 conduct and why we're here?

15 A. Yes, sir, in a couple of ways. One of
16 them is that he is living in a high-risk
17 community setting, and I'll talk about this in
18 a minute. So he needs just as much emotional
19 resources from his mom as he can get. She
20 needs to be healthy emotional, be available and
21 be paying attention. She is overwhelmed,
22 depressed and impaired herself, caught up in
23 chaotic relationship with me. Then that
24 substantially reduces who is at-hand to help
25 him cope with the other disruptions in his life

1 and the community risks that he is facing.

2 Q. All right. What is the next family factor
3 that you found?

4 A. The next is his mother's sequential live-
5 in romantic partners. Jerome Willie Fludd was
6 the most enduring of those. There was also
7 Herbert Jenkins, Eddie, and John Farr, and then
8 as the family described it "lots of boyfriends"
9 that moved in with her; and the perception that
10 the men in her life were always more important
11 to her than the children.

12 Q. I think that Mr. Fludd, who actually
13 provided a stable environment, later was not in
14 the household for some legal reasons of his
15 own?

16 A. Yes, sir, that relationship was ended and
17 he was subsequently incarcerated for bad
18 checks.

19 Q. What is the next family factor that you
20 found that applies to William and is also
21 relevant to this research?

22 A. The next factor is emotional rejection and
23 neglect, particularly from his mom.

24 Q. We've heard information about that, so let
25 me move next to -- what is another factor that

1 you found ---

2 A. Yes, sir. If I could just add regarding
3 the neglect that the research tells us that
4 neglect ends up being more injurious to
5 children than active abuse does in terms of
6 outcome, puts the kid more at-risk.

7 Q. How is that?

8 A. Well, it kind of makes sense when you
9 think about it.

10 Children that are abused may get pretty
11 good parenting, pretty good emotional nurturing
12 from the parent except that the parent loses
13 control, goes off on them and hurts them. So
14 it's like they are getting fed pretty well,
15 they are just injured periodically.

16 Neglect is more like chronic malnutrition.
17 You never are getting the groceries. That ends
18 up being more destructive to the developing
19 person emotionally, emotional resources, that
20 they are not getting. That has a more
21 injurious effect on them, stuns them
22 emotionally more than if they were being abused
23 but being treated pretty well the rest of the
24 time.

25 Q. What is the next family factor that you

1 found or factor that research found that puts
2 William at risk?

3 A. The next is his mother's physical and
4 emotional abuse of him. The description was
5 that she took her frustration out on the kids
6 and that he bore the brunt of it, much more so
7 than his brother Armon.

8 There was a very different way that Sandra
9 related to these children, as a parent. If
10 Armon cried, William was going to get punished.
11 He was the one that she was focused on and had
12 almost like emotional antibodies against, that
13 she hit him, cursed him, put him outside naked,
14 seemed to not interact with him in the way.

15 The look on your mama's face when you look
16 at her, the sense of acceptance and caring,
17 investment, as opposed to maybe the look that
18 you got from your siblings sometimes that you
19 were just a huge irritation and pain to them.

20 When you see your brother getting that
21 affirmation and you're there and you're not,
22 and it's happening recurrently, consistently,
23 that's a very difficult thing on the emotional
24 side, as well as the physical abuse that is
25 occurring.

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1 Q. Again, isn't that just kind of, to use the
2 phrase, "abuse excuse" or is there research
3 that tells us that that type of behavior has an
4 effect on the child at a later time?

5 A. Sure, it has consequences. There is
6 research that reflects that. Let me describe
7 to you two studies, briefly, that have been
8 sponsored by the U.S. Department of Justice.

9 The first one is a very well-known study
10 published by Kathy Whittle, that has been going
11 now for about thirty years, where they began
12 tracking nine hundred kids who had come before
13 the court abused and neglected, and tracking
14 about seven hundred kids from the same
15 elementary school classrooms who hadn't come
16 before the court. They are now following some
17 of these kids fifteen to twenty-five years out.
18 The Department of Justice has begun to fund
19 this research. Here's what they've found:

20 The kids that were mistreated were
21 almost five times more likely to be arrested as
22 juveniles.

23 They were twice as likely to be
24 arrested as adults.

25 They were three times more likely to

1 be arrested for violence crimes as adults.

2 Now, were all of them arrested for violent
3 crimes? No. No. It didn't take away choice,
4 it did triple the risk -- put that choice at
5 that kind of angle.

6 Q. All right.

7 A. The other study is, again sponsored by the
8 U.S. Department of Justice, large scale, called
9 the Rochester Youth Development Study. This is
10 an extraordinary study. They have been
11 interviewing a thousand children and their
12 caretakers every six months from the time that
13 they were in the seventh and eighth grades on
14 across their teens. They are looking at three
15 types of violence: spouse abuse, which was
16 present in William's household; abuse of the
17 children, which was present; and a climate of
18 violence and hostility, which was present.
19 Three types.

20 Here is what they've found:

21 These are kids that were at some
22 degree of risk anyway. Even with no family
23 violence, thirty-eight percent of the teenage
24 males engaged in violence in the community.
25 You add one type of family violence, it jumps

1 to sixty percent; two types, seventy-three;
2 three types, seventy-eight percent. You can
3 see the additive effect that you are getting as
4 you add on more and more types of violence.

5 Q. That was all present in William's
6 situation?

7 A. That's correct.

8 Q. All right. What is the last family factor
9 that you found? (Affirmative nod).

10 A. His mother's duplicity.

11 Q. Can you explain what you mean by that?

12 A. Yes. While she is complaining about him
13 on one hand, complaining to the authorities
14 that he is ungovernable, that she can't control
15 him, at the same time that is happening she is
16 running a sequence of men through the house,
17 she is emotionally and physically abusing him,
18 emotionally neglected him, abused drugs herself
19 and, as I will describe later, taken the
20 proceeds of his selling drugs to help support
21 the household.

22 So on the one hand you have her complaining
23 about him to the authorities while she
24 simultaneously is part of the problem and is
25 even accepting some of the proceeds.

1 Q. All right. Let's next move to the
2 category of community. What factors did you
3 find that applies to William?

4 A. There were negative community influences
5 of a numbers of types. He grew up on the west
6 side of downtown Charleston. People hang out
7 on the streets drinking beer, getting high,
8 dealing drugs, prostituting.

9 When I interviewed him, he estimated that
10 eighty to eighty-five percent of the households
11 in his neighborhood were single-parent moms,
12 and that eight out of ten of those had a drug
13 or alcohol problem.

14 That the surrogate father for these kids
15 was the street.

16 Q. What did you find regarding community
17 violence as he applied to William?

18 A. He described hearing gunfire one or two
19 times daily, pretty routinely as he was growing
20 up.

21 That at age fourteen he observed one guy
22 stab another guy in the chest two or three
23 times where they were shooting dice on the
24 basketball court and he was about twenty feet
25 away.

1 When he was fifteen or sixteen, he saw two
2 or three armed robberies of drug dealers.

3 Q. Let me ask you, why should we care about
4 that? None of that happened to him. He wasn't
5 stabbed or robbed during that time, so why
6 should be care about that?

7 A. Because violence in the community ends up
8 affecting the way this kid feels about himself
9 and how he feels about violence, how "normal"
10 it is.

11 There is research that has been done by a
12 researcher named Gabarino, as well as others,
13 who have identified that when children grow up
14 in high-violence neighborhoods they are prone
15 to psychological disorders, grief and loss
16 reactions, school problems. It stunts their
17 moral development. That doesn't mean that they
18 don't know right from wrong, it means that
19 their value system has been distorted by the
20 violence that they are growing up in the middle
21 of.

22 It results in a pathological, an unhealthy
23 adaptation of that where violence becomes
24 normalized and seems like a part of life, and
25 where they even become like the people that

1 they were so terrified of. It is called
2 identification with the aggressor.

3 Q. Did you find William had people that he
4 personally knew or who were people in his
5 family who were victims of homicide?

6 A. Yes, sir, there were neighborhood friends
7 that he could recall. Lex Jenkins was murdered
8 in 1997, Richard Gregory was murdered in 1998,
9 Rivero Richardson was murdered in 2004. Then a
10 cousin of his, Carlos Watkins, who is the son
11 of maternal aunt Betty Millegan (phonetic) was
12 shot to death in 2004.

13 Q. Why should we care about any of that, what
14 difference does that make here?

15 A. Because that's the world that he is
16 growing up in, because there's good science
17 that tells us what we already know -- which is
18 that growing up in that kind of high violence
19 situation is having a corrosive effect on the
20 children that are a part of those communities.

21 Q. What is the next community factor that you
22 found of importance in William's life?

23 A. Well, let me -- we talked about the effect
24 of growing up in that and, again, there is
25 another study by the Department of Justice that

1 describes the relationship between violence
2 communities and kids ending up in violent
3 crimes. This is looking at the delinquency
4 rates of male teens who are growing up in
5 violent neighborhoods. Here is what they've
6 found: ---

7 SOLICITOR WILSON: Your Honor, I am
8 going to object to his ---

9 THE COURT: Sustained. Listen to
10 his question, answer the question. Thank you,
11 sir.

12 DIRECT EXAMINATION CONTINUED.

13 BY MR. BLOOM:

14 Q. Doctor, let's move on. What is the next
15 community factor that you found?

16 A. The next one was sexually traumatic
17 exposures.

18 Q. What was significant in William's life in
19 that regard?

20 A. When he was aged ten or eleven, his
21 therapist at that time strongly suspected that
22 he had been molested in the home.

23 When he was age thirteen, the records
24 reflect that he had his first sexual experience
25 with a prostitute; then immediately became very

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1 alarmed that he might have been HIV exposed,
2 and so he went to the health clinic.

3 Q. Why should we care that at age thirteen
4 that he has his first sexual encounter with a
5 prostitute, why is that significant?

6 A. For the same reason we would be concerned
7 if our own son at thirteen had a first
8 intercourse with a street prostitute, because
9 sexuality is this very fragile circuit that
10 needs to unfold gradually in the context of
11 intimacy and caring, self-respect and respect
12 for the other person. When a person
13 experiences this at thirteen and it's with a
14 prostitute, and it's accompanied by anxiety
15 that you may contract a life-threatening
16 disease, that is this -- the distortion and
17 perverting of the unfolding that would lead to
18 healthy sexuality.

19 Q. All right. When you put all those things
20 together that you've described to us that
21 you've found, the wiring, his individual
22 background, family, community, where does that
23 lead?

24 A. When you put together the wiring of family
25 and communities that are having this sort of

1 disruptive effect, it creates what I would
2 characterize as a disturbed trajectory. The
3 idea is that the effect of those is to push the
4 car off the road and into ditch. Now, the
5 longer you ride along in the ditch, the more
6 you tear up the car. So as those things are
7 happening, from the effect of these, these
8 aspects of the disturbed trajectory would come
9 with their own misery.

10 Q. Why should we care about that as it
11 applies to William and what we're here for
12 today? Why does that matter?

13 A. Ultimately there is a very tragic end to
14 this trajectory that is occurring. As someone
15 -- it's someone's moral culpability as their
16 life is weighed in relation to that. The
17 forces that push them in that direction, that
18 begin that trajectory, are important to
19 understand. We don't all arrive at our choices
20 out of the same raw material.

21 Q. What is the first item that you found as a
22 psychological in that disturbed trajectory?

23 A. It was the childhood psychological
24 disorder that results in psychiatric
25 hospitalization when he was eleven.

1 Q. All right. Next?

2 A. The next was teen-onset of alcohol and
3 drug abuse that began at age twelve or thirteen
4 at a level of pretty heavy abuse and grew over
5 time and expanded in terms of the substances
6 involved.

7 Q. What is the next one that you found?

8 A. The next was teen recruitment into drug
9 dealing.

10 Q. Explain that, if you would, for us. Tell
11 us about that.

12 A. Yes, sir. As he was growing up, he
13 observed he drug traffic in the project, on the
14 streets around him, from his earliest memories.

15
16 Meanwhile, mom is struggling and cleaning
17 houses to try to scrap together a living. At
18 the same time, he is looking at this very
19 successful looking drug dealers and they are
20 like surrogate fathers. They have nice cars,
21 clothes, good jewelry, pretty woman. You say
22 to yourself, 'I want to be like those guys some
23 day.'

24 Most of the identification of the males
25 that seem to be successful there, as well as

1 the poverty and emotional neglect is occurring
2 at the same time. It begins in subtle ways.
3 The big guys give you money to go to the store
4 for them, so they can stay out on the corner
5 and keep doing business.

6 Then when he was twelve or thirteen,
7 they'd give him twenty or thirty dollars a day
8 to watch out and to give a signal if the police
9 were identified as coming.

10 Then at age fourteen, a sixteen-year-old
11 acquaintance had a drug connection, who would
12 front heroin for them to sell themselves. He
13 would leave after -- either leave school at
14 lunch or after school and then be out on the
15 street selling until ten or eleven, twelve
16 o'clock at night.

17 After he did that for six months, he's
18 still fourteen and he broke off on his own and
19 began to traffic in cocaine. That's a
20 fourteen-year-old.

21 Q. Fourteen-year-old?

22 A. (Affirmative nod).

23 Q. What I wanted to ask you next in that
24 regard is what -- what you're telling us, both
25 from your background and from the research in

1 your field, that this is what the information
2 we've heard about leads to, this type of
3 activity?

4 A. (Affirmative nod).

5 Q. So it should be not surprise that ---

6 A. Yes, sir, that's correct. There are
7 clearly identifiable risk factors associated
8 with beginning to deal drugs as a teenager,
9 that have also been identified by research.

10 Q. Let me ask you this, did you find that his
11 mother benefitted in any way from his dealing
12 in illegal drugs at age fourteen?

13 A. Yes, sir, I did. He described that he was
14 making about five hundred a week, that he was
15 giving her two or three hundred a month
16 directly as well as buying school clothes,
17 groceries and making sure his brother ate,
18 paying the light bill. His priority was paying
19 the bills first and then giving her some cash
20 after that. He said that was pretty typical of
21 about half of the guys that he knew dealing
22 drugs, that they were using a good part of that
23 money to help take care of their immediate
24 family and extended family.

25 Q. Can we go ahead to the next disturbed

1 factor that you found in his background, I

2 believe number twenty-one?

3 A. Yes, sir. That was institutionalization
4 in childhood, in his teens and early adulthood.

5 Q. So, again, because of background
6 information we've heard from other witnesses,
7 there is no surprise that this is where he ends
8 up after that kind of conduct?

9 SOLICITOR WILSON: Objection. I
10 believe this has been asked and answered.

11 THE COURT: It has. Let's move on.

12 MR. BLOOM: All right.

13 THE COURT: We've covered this by
14 numerous witnesses, sir.

15 MR. BLOOM: Yes, sir.

16 DIRECT EXAMINATION CONTINUED

17 BY MR. BLOOM:

18 Q. Next, what is the next factor that you
19 found, Dr. Cunningham?

20 A. The next factor was the cocaine-induced
21 psychological deterioration and psychosis.

22 A. We heard that testimony from Dr. Phillips.
23 I will just ask you briefly if you agree with
24 that diagnosis?

25 A. Yes, I do.

1 Q. All right. Let me ask you next, do you
2 have an opinion to a reasonable degree of
3 certainty in your field that the capacity of
4 Mr. Dickerson to appreciate the criminality of
5 his conduct or to conform his conduct to the
6 requirements of law was substantially impaired
7 at the time of this incident?

8 A. Yes, I do.

9 Q. What is that?

10 A. That it was substantially impaired.

11 Q. All right. Do you have an opinion that
12 his mentality or mental state was impaired at
13 the time of the incident?

14 A. Yes, I do.

15 Q. What is that?

16 A. That it was substantially impaired.

17 Q. Do you have an opinion that at the time of
18 the incident that Mr. Dickerson was under the
19 influence of mental or emotional disturbance?

20 A. Yes, I do.

21 Q. What is that?

22 A. That he was under the influence of mental
23 or emotional disturbance.

24 Q. Can you summarize for us in your view how
25 it relates to William of how a person with his

1 background and history makes free and voluntary
2 choices?

3 A. Yes, sir. If we look at William or any
4 person and, that is, the risks, the bad
5 outcomes -- psychological disorder, victimized
6 relationships, drug dependency, criminal
7 activity -- the question is how does he get
8 from here to over to one of these bad outcomes
9 and what did choice have to do with it.

10 As you're growing up, you have this kind
11 of foundation for your life. If there is no
12 family history of addiction or psychological
13 disorder, there is no childhood maltreatment or
14 violence exposure, there is no developmental
15 abandonment or instability, then that's the
16 foundation that your life and your choices rest
17 on. Typically what would go along with that
18 are a lot of things that stand between you and
19 those bad outcomes.

20 You get a choice. Your choice rests on
21 top of that whole structure.

22 Now, somebody who looks like this can
23 still get to the bad outcomes but it is not
24 easy, it's quite a leap. So most of the people
25 who look like this, who have this kind of

1 foundation and the type of family where there
2 was acceptance and affirmative, stability and
3 structure, consistency where their parents
4 modeled -- not just telling them the right
5 thing to do but modeled positive values and
6 have support in the community of positive
7 peers. Mostly those people don't over in any
8 of these problems.

9 Q. Because mostly those people are making
10 good choices?

11 A. That's correct.

12 Q. Because of the foundation that they
13 started with?

14 A. The choices rest on top of that whole
15 structure. If you have a family history of
16 addiction and psychological disorders, like
17 William had, now you're ramping this thing up
18 some. If there is maltreatment and exposure to
19 violence like he now, now you're ramping it up
20 some more. If there is developmental
21 abandonment or instability, now you're ramping
22 it up some more. If this guy begins drinking
23 and drugging himself, as William did, it just
24 like you put it on rollers in terms of your
25 risk of ending up in these bad outcomes.

1 Of course, if you have all of these things
2 going on on this ramp growing up, then you
3 don't have these things, as he didn't, and so
4 you look like this. This guy has a choice, not
5 the same choice that this person had. He has a
6 choice that is on this ramp and that's what
7 makes the consideration of someone's background
8 and history important to evaluating those
9 choices and how those choices should be
10 punished.

11 Q. Is it your professional opinion in your
12 field of expertise, based on your evaluation of
13 William, the record, the research that you've
14 related to us today about risk factors, and
15 other developmental factors, that William's
16 choice resembled the chart that you have
17 displayed for us here today?

18 A. Yes, sir, I believe that it did.

19 MR. BLOOM: Thank you.

20 THE COURT: Cross examine?

21 CROSS EXAMINATION

22 BY SOLICITOR WILSON:

23 Q. I don't have a whole lot of questions. I
24 do just want to go over a few things.

25 A. Yes, ma'am.

1 Q. Be a little patient with me. The
2 testimony that you've given this afternoon has
3 been about the risk factors for William's
4 choices in life?

5 A. Yes, ma'am.

6 Q. Taking the Department of Justice studies
7 and that sort of thing to factor into what is
8 dangerous?

9 A. Yes, ma'am.

10 Q. The odds were stacked against him. There
11 is no question about that.

12 A. That's correct.

13 Q. In your studies, you mentioned that you're
14 a scientist, did you perform tests on William?

15 A. No, ma'am. I interviewed him for two
16 hours. I performed no testing.

17 Q. Okay. So there was no -- you can do tests
18 now, even present day, to determine lead
19 exposure, brain damage and things like that.
20 That could have been done?

21 A. You could measure his current lead level.
22 You wouldn't necessarily be able to know what
23 his childhood lead level was from that. There
24 is ---

25 Q. Why?

1 A. Well, you may be able to infer to some
2 extent. There is testing that can be done that
3 can look at many aspects of his brain
4 functioning, neuropsychological assessment and
5 that sort of thing.

6 Q. Okay. And the reason -- I think you
7 mentioned this -- that you and other doctors
8 and the Department of Justice do all these
9 studies and look into all of this is so that
10 all of us can guide our children to make better
11 choices? To know what affect them?

12 A. Yes, ma'am, for our own families or for
13 resources and programs in our communities that
14 aid in development.

15 Q. And in your slide show and your testimony,
16 you testified that you interviewed family
17 members. Is that correct?

18 A. No, ma'am, I relied on interviews that had
19 been done of family members as part of the
20 mitigation and investigation and my
21 understanding of their testimony.

22 Q. Present day interviews?

23 A. Yes, ma'am. In the record that describes
24 the ---

25 Q. Do you have copies of those interviews?

1 A. Yes, ma'am.

2 Q. May I take a look at those?

3 A. (Tenders)

4 Q. Is that notebook everything that you
5 relief on in this case?

6 A. Yes, ma'am. Well, it doesn't continue all
7 the research that I described.

8 Q. Right. I mean ---

9 A. These are all the records that I've used.

10 Q. Could I just take the whole notebook?

11 A. (Tenders), -- do you want these, as well?

12 Q. No, sir. I think we have a lot of these
13 but we don't have the interviews that you are
14 talking about.

15 So those interviews were things that you
16 looked at to make your findings but you didn't
17 actually conduct the interviews?

18 A. That's correct.

19 SOLICITOR WILSON: (Tenders notebook
20 to Bruce Durant for review).

21 CROSS EXAMINATION CONTINUED

22 BY SOLICITOR WILSON:

23 Q. And you said that those interviews were
24 conducted in preparation for this proceeding?

25 A. Yes, ma'am. That is my understanding,

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1 yes.

2 Q. Now, some of the things that you talked
3 about regarding these risk factors, and I think
4 you mentioned with regard to the good factors,
5 those were the protective factors, right?

6 A. Yes, ma'am.

7 Q. And the ones that you're saying that
8 William did have going for him was that people
9 starting touching his life outside the family
10 at age ten, eleven, something like: MUSC, the
11 Department of Mental Health, Tara Hall, during
12 his early teen years. That was positive?

13 A. Yes, ma'am.

14 Q. And that took some initiative from his
15 family?

16 A. In terms of his mother taking him to an
17 initial appointment, I don't recall there being
18 initiative from his family beyond that.

19 Q. Okay. Back to this lead test that was
20 done when William was eleven, I believe that
21 you mentioned that his lead was not elevated
22 although Armon's, his brother's, lead was?

23 A. He had -- it was not elevated at a level
24 where the CDC began a active -- their
25 surveillance marker begins at ten, he was a

1 nine. There is no safe lead level but his was
2 not above ten.

3 Q. So the CDC, the Center for Disease
4 Control, wouldn't have flagged him, said
5 'you've got to keep on testing him because it
6 is dangerous.' That did flag Armon and that's
7 why he got tested over and over. Correct?

8 A. That's correct.

9 Q. It wasn't that his mama was neglecting
10 William and protecting Armon?

11 A. Well, it's not clear. In fact, the lead
12 levels that you see measured in Armon are taken
13 during the 1984-1985 range. The lead level
14 that's drawn on William isn't until 1988.

15 Q. He never was flagged?

16 A. I don't know whether there was any testing
17 that was done before 1987-1988. I don't have
18 any record of that. We have Armon getting
19 flagged as early as 1982.

20 Q. And although certainly being in the same
21 household, they would be exposed pretty much
22 the same, what an individual does with that
23 lead could make a difference? I don't think
24 that it was you but another doctor testified
25 that it is kind of sweet tasting and that's

1 that why some children eat it.

2 A. Yes, ma'am. The ones who are eating it
3 will certainty have higher lead levels than the
4 ones who breathe it.

5 Q. And in some cases -- I mean, I didn't know
6 that before doing this kind of work either, but
7 in some cases there are actually histories of
8 children who will lick the paint or such on a
9 bannister or a windowsill and then later we see
10 higher lead levels. Right?

11 A. Yes, ma'am.

12 Q. Okay. Certainly in that environment,
13 basically the whole area of Bogard Street, --
14 have you been in that area before?

15 A. No, ma'am. I may have. I don't recall.

16 Q. But you understand that it is a pretty low
17 income, older, much older homes?

18 A. Yes, ma'am.

19 Q. And lead risk is huge there?

20 A. Yes, ma'am.

21 Q. In fact, if there are agencies who monitor
22 lead in that area regularly that wouldn't
23 surprise you?

24 A. No, ma'am, it would not.

25 Q. And there are across this nation lawsuits

1 galore about lead poisoning and the effects of
2 lead on children?

3 A. I am not familiar with the litigation
4 around it. I know that there are public health
5 concerns with lead.

6 Q. So being in a household like the one that
7 William was in, and I believe that you noted
8 that it wasn't only his home but it was his
9 grandmother's home, ---

10 A. That's correct.

11 Q. --- and that the paint was not fixed, that
12 things were not done to remedy that?

13 A. That's correct.

14 Q. But there is no indication, again, that
15 that was done affirmatively. It may have been
16 just a financial poverty type situation to
17 where they couldn't fix it?

18 A. If you're talking about mom, uh, -- you've
19 got two folks that are tasked with fixing it.
20 One is mom or grandma and the other is the
21 landlord.

22 Q. Yes.

23 A. I would probably evaluate them by
24 different standards. They are apparently not
25 getting compliance from either one, for

1 whatever reason.

2 Q. But that was in both the mother's home and
3 the grandmother's home? One was 8 Bogard and
4 one was 10 Bogard?

5 A. That's right.

6 Q. So that was a risk factor for William that
7 didn't come to fruition as far as being
8 flagged, having that CDC elevated lead level,
9 that we know of?

10 A. It didn't come to fruition in terms of him
11 being flagged. If we look at that graph of a
12 fifty percent increase in criminal violence
13 associated with a blood level of nine, that did
14 come to fruition. But in terms of being
15 flagged, it did not.

16 Q. So there was no evidence, again, that he
17 had that elevated level that we have in our
18 record, understanding that he may not have been
19 tested as much?

20 A. I have no record of him having above a ten
21 lead level.

22 Q. As far as the adverse factors, this risk
23 factors that you talk about, you mentioned the
24 gunshot wound to the head. Is that the
25 situation that was described, I'm sure in the

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1 records that you had, regarding the incident
2 with the police where he was shot?

3 A. Yes.

4 Q. It was described as a pretty superficial
5 type injury?

6 A. (No verbal response).

7 Q. There was no evidence of brain damage with
8 that.

9 A. Well, there was -- the CT scan did not
10 show hemorrhage or that sort of thing inside
11 the brain. He was described as intermittently
12 inappropriate and confused.

13 Q. At the hospital that day?

14 A. At the hospital that day, in response to
15 that, which would be consistent with a pretty
16 good blow to the head.

17 Q. Like a concussion?

18 A. Yes, ma'am.

19 Q. But there has been no CT scan recently to
20 show any longlasting effects from that injury.
21 In fact, he went to jail shortly after that.

22 A. Yes, ma'am. He went to the jail shortly
23 after that. You would not expect a CT scan to
24 show the effects of a closed head injury like a
25 concussion unless there was a bleed or that

1 sort of thing that develops.

2 Q. And there was not.

3 A. There was not.

4 Q. Another thing you talked about was this
5 genetic vulnerability to having a psychological
6 or personality disorder because William's dad
7 had, you said, a sociopathic type personality
8 disorder?

9 A. That was described about him in the
10 records.

11 Q. So, again, William would have been at a
12 higher risk factor because those sorts of
13 things can be genetic?

14 A. Yes, ma'am.

15 Q. But William does not have that?

16 A. He does not have that personality
17 disorder, although he does have a history or
18 repeated criminal activity.

19 Q. Sure. But he has been diagnosed with
20 that?

21 A. That's correct.

22 Q. You also -- one of the things that you
23 talked about is that William's mom put him out
24 naked at a time -- I'm merging some of you'all,
25 sorry. One of the reports was, recently by

1 family members, that William was out outside by
2 his mama naked and that that would be very
3 traumatic?

4 A. But also in the report, isn't it true that
5 when Ms. Dickerson took William to get help
6 that she reported that he would run away naked,
7 that he would run out naked?

8 A. I don't recall her report that he would
9 run out naked. I recall her report that he
10 repeatedly ran away.

11 Q. One time she said naked?

12 A. You would have to direct my attention to
13 that. I don't recall that in the report.

14 Q. But we could be looking at two perceptions
15 of the same event? The mama's version and
16 William's version?

17 A. Actually the version that she put him out
18 of the house, as I recall, came from an aunt
19 who described that event.

20 Q. The aunt recently described that event?

21 A. Yes, ma'am.

22 Q. In preparation for this particular ---

23 A. As part of the investigation that was done
24 in this case.

25 Q. In the -- I am not sure which -- I believe

1 that it was in the William S. Hall social
2 history, does that look familiar?

3 A. (Upon review), yes.

4 Q. On the second page it says, "She reports
5 his often running naked and running away from
6 the house repeatedly."

7 A. (Upon review), yes, ma'am. I don't know
8 if that is running away naked or running naked
9 in the house. I don't know.

10 Q. Okay. Now, with regards to again of the
11 risk factors or the adverse developmental
12 factors, when William was giving the report,
13 the last time that he was at the Department of
14 Mental Health, in talking about the environment
15 that he was in, his stepfather and his
16 jealously, he reported not that there was
17 domestic violence but that the mom and stepmom
18 (sic) would give each other the cold shoulder
19 and wouldn't speak to each other and that
20 created more stress, according to the social
21 worker. Do you remember seeing that report?

22 A. I remember the cold should. My
23 recollection is that he and the stepfather were
24 not speaking to each other, not that there was
25 a cold shoulder between the mom and the

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1 stepfather. But if I -- I would need to look
2 at that record to refresh myself specifically.
3 I could easily turn to that if I had my
4 notebook.

5 Q. I understand.

6 A. The problem is that I don't have a
7 photographic memory.

8 Q. The problem is that we don't have
9 everything that you have, so this is my chance
10 to look at it. My eyes are behind me
11 (indicating Bruce Durant). I appreciate it.

12 A. Yes, ma'am.

13 Q. And you -- did you have the report, too,
14 that Jerome Fludd, while he didn't live in the
15 home very long, Armon's father, was a positive
16 influence and that he tried to help refurbish
17 the house and tried to do good for the family?

18 A. Yes, ma'am. My recollection is that there
19 were some pretty significant physical neglect,
20 rats running through the walls, filth in the
21 household and that kind of thing, no heat on,
22 that he was very alarmed by and began to try to
23 remedy. That aspect of his presence in the
24 home was positive. I don't have information
25 about the quality of the relationship that he

1 had or why he -- how close they were or why he
2 did or did not stay in touch with William after
3 that.

4 Q. Now, Doctor, you know this is Charleston
5 and lots of people might have rats in their
6 attics or in their walls around here.

7 A. We had some in Abilene, too. I found that
8 to be a distressing noise.

9 Q. Me, too. Especially when they are the
10 size of a large opossum.

11 Now, regarding the father, William's
12 father, it has been testified to over and over
13 that he was in prison from the time William was
14 four months old.

15 A. Yes, ma'am.

16 Q. That was the partner that Sandra,
17 William's mother, reported this abuse from,
18 when she was pregnant and things like that?

19 A. That's correct.

20 Q. William's father?

21 A. That's correct.

22 Q. He went to prison when William was four
23 months old and then didn't get out until much
24 later?

25 A. That's correct.

1 Q. In fact, William was twenty years old when
2 his father was convicted of murder?

3 A. (No verbal response).

4 Q. I believe that you testified that even
5 though he didn't have a relationship with him
6 that that helped mold his identity?

7 A. Yes.

8 Q. Certainly Gerard Roper's children will be
9 molded by what happened to their father?

10 A. Yes, ma'am.

11 Q. Specifically the way that he died? Even
12 though they may not remember him?

13 A. Yes, ma'am.

14 Q. With regard to the mother's use of
15 cocaine, Doctor, isn't it true that in these
16 records the only reports are that she used
17 marijuana? There are no report that she used
18 cocaine?

19 A. No, ma'am. There is a reference to
20 cocaine -- I may need to get my -- it may be in
21 these or it may be ---

22 Q. Was that the interview of in the history
23 given back in the '90s?

24 A. I believe that was in the history given
25 back in the '90s, as I recall. There is a

1 single reference that describes marijuana and
2 cocaine. It may -- I am not sure if it is in
3 these or if it is in the one that you have.

4 Q. We can come back to that. Regarding
5 community violence, you mentioned again that
6 one of the things that put the Defendant at
7 risk was that he had witnessed an armed robbery
8 at fifteen or sixteen, armed robberies of drug
9 dealers?

10 A. Yes, ma'am. One other thing that was part
11 of the community violence that he was exposed
12 to.

13 Q. Was it reported to you, as has been
14 testified here, that at about that time he was
15 involved in, quote, "the business" with his
16 friends T-nel and Popcorn, doing that same
17 thing, armed-robbery of drug dealers?

18 A. Yes, ma'am.

19 Q. And they specifically stayed away from
20 businesses like stores but that was their game?

21 A. I am familiar with his being arrested and
22 convicted of an offense like that. Whether
23 there was a pattern of those or not, I don't
24 have knowledge of that. I am aware that he was
25 arrested for that.

1 Q. But you were not given that history that
2 that was his, Popcorn's, and T-nel's, quote,
3 "business"?

4 A. I don't recall that. I wouldn't be
5 surprised by it, but I don't recall it.

6 Q. You wouldn't be surprised because of all
7 the risk factors?

8 A. And because as he was arrested for that,
9 the likelihood of that being the only time that
10 it ever happened.

11 Q. Okay. Are you aware of his involvement in
12 the gang Money Under Pressure?

13 A. I've seen that reference, yes.

14 Q. With regards to the traumatic sexual
15 experience, first of all you referred to Dr.
16 Rivers who we heard testify, I believe
17 yesterday. She was at Tara Hall, right?

18 A. Yes, ma'am.

19 Q. And she testified that after his throwing
20 the brick through the window incident and some
21 other things going on that were reported, that
22 she felt like there was a strong indicator of
23 molestation or traumatic -- other traumatic
24 things happening in the neighborhood and home?

25 A. Yes, ma'am.

1 Q. Is that right?

2 A. (Affirmative nod).

3 Q. But there has been no evidence in the
4 record of, and the Defendant has denied, any
5 sexual abuse.

6 A. I am not familiar with his denial of
7 sexual abuse. I don't have other records of
8 that happening besides her description and her
9 intuition about that from working closely with
10 him.

11 Q. Okay. You mentioned that after this
12 incident that William had with the prostitute
13 that he had the intelligence and the
14 wherewithal to -- did he go to his mother or
15 did he just go to the clinic to see if perhaps
16 he had AIDS?

17 A. I don't know of his mother being informed
18 but he did go to the clinic to be tested.

19 Q. He took that initiative?

20 A. Yes, ma'am.

21 Q. Just like when he was in prison and he had
22 some issues with substance abuse, he sought
23 help for his substance abuse problems?

24 A. Yes, ma'am, he did. Let me amend that. I
25 know that he ended up getting substance and

1 rehabilitation treatment in prison. I don't
2 know to what extent that was as a result of his
3 initiative in doing that or whether he was
4 referred for that because he tested positive
5 for THC on occasion. I don't know. I don't
6 recall how those two matched up with each
7 other. Certainly he cooperated in that
8 treatment.

9 SOLICITOR WILSON: Beg the court's
10 indulgence.

11 THE COURT: Certainly. Ladies and
12 Gentlemen, we will let you go to your jury room
13 and take a break. We will be within you in
14 five minutes or so. Do not discuss the case.

15 (JURY OUT @ 5:33 P.M.)

16 THE COURT: We will be at-ease for
17 about five minutes. Doctor, during the recess
18 you may step down but I ask that you please not
19 have any conversation with any of the
20 attorneys.

21 (BRIEF RECESS)

22 (DEFENDANT PRESENT)

23 THE COURT: Solicitor, are you ready
24 to continue?

25 SOLICITOR WILSON: Yes, sir. Thank

1 you. Thank you.

2 THE COURT: Is the defense ready?

3 MR. BLOOM: Yes, sir.

4 THE COURT: Invite the jury to
5 return.

6 (JURY IN @ 5:42 P.M.)

7 THE COURT: Thank you, Ladies and
8 Gentlemen. Solicitor, you may continue with
9 your examination.

10 CROSS EXAMINATION RESUMED

11 BY SOLICITOR WILSON:

12 Q. Doctor, just a -- (returns notebook to
13 witness). Doctor, before we broke I was asking
14 you about -- you mentioned that the Defendant
15 has somehow gotten help or gone to get tested
16 after he was concerned about HIV from the
17 prostitute.

18 A. Yes, ma'am.

19 Q. I was asking you if you recall when the
20 Defendant was in prison on two separate
21 occasions the Defendant writing for help for
22 his drug problems. You don't recall that, when
23 he was at Ridgeland two letters in the record
24 saying, (reading): "I am writing for help
25 with my drug problem. I have tested positive.

1 I said to myself that I could stop on my own
2 but I end up doing it again. I don't want to
3 end up like that, wanting to go back to the
4 street." Do you remember that?

5 A. Yes, ma'am. I recall that he was
6 requesting it. What I couldn't recall was
7 whether that request just came out of the blue
8 or whether the request followed his testing
9 positive for this, where there might also be
10 some disciplinary consequence that would be
11 associated with that.

12 That is -- what I was describing is that I
13 don't know the full context of exactly how much
14 that was a spontaneous thing for help or
15 whether it was being precipitated by the drug
16 screen.

17 Q. So you are familiar with the two times
18 that is referenced in those records?

19 A. Yes, ma'am.

20 Q. The first time he is asking for help.
21 Then the second time he says, (reading): "Yes,
22 I am writing you again. Ms. Campbell, you said
23 to be patient. Yes, I am being patient but
24 it's real hard dealing with the situation at
25 hand. It seems like I am reaching out for help

1 and it is taking entirely too long."

2 A. Yes, ma'am.

3 Q. Okay. So he was aware of how to get help,
4 at least while he was in prison?

5 A. Yes, ma'am.

6 SOLICITOR WILSON: That's all,
7 Judge.

8 THE COURT: Redirect?

9 MR. BLOOM: I have no objection if
10 the Solicitor wants to introduce the letter.

11 SOLICITOR WILSON: I'll take a look
12 and if I want to, I'll ---

13 THE COURT: That's fine. Do you
14 have any redirect?

15 MR. BLOOM: No, sir, Your Honor.

16 THE COURT: Do you wish this witness
17 to be excused?

18 MR. BLOOM: Please, Your Honor.

19 THE COURT: Any objection,
20 Solicitor?

21 SOLICITOR WILSON: No, sir.

22 THE COURT: Dr. Cunningham, thank
23 you so much. Please step down. You're also
24 free to leave, sir.

25 (WITNESS STEPS DOWN)

1 MR. BLOOM: Our next witness, Your
2 Honor, is Adele Watson and it won't take very
3 long.

4 (WITNESS TAKES STAND)

5 MR. BLOOM: (Tenders document to be
6 marked as exhibit).

7 COURT REPORTER: Defendant's Exhibit
8 33 for identification, and Defendant's Exhibit
9 34 for identification.

10 MR. BLOOM: That's for ID.

11 COURT REPORTER: For identification
12 only.

13 SOLICITOR WILSON: Judge, may we
14 approach?

15 THE COURT: Sure.

16 (OFF RECORD BENCH CONFERENCE)

17 ADELE WATSON, being duly sworn to tell
18 the truth, the whole truth and nothing but the
19 truth, testified, as follows:

20 DIRECT EXAMINATION

21 BY MR. BLOOM:

22 Q. You are William's grandmother?

23 A. Yes, I am.

24 Q. This is a very ungentlemanly thing for me
25 to do, but may I ask your age.

1 A. Eighty-three (83).

2 Q. God bless you, ma'am.

3 A. Thank you.

4 Q. Do you recall when your grandson William
5 was born?

6 A. Yes, he was a little tiny baby.

7 Q. Did he fit in a shoebox?

8 A. That's right.

9 Q. For a period of time you lived next-door
10 to your daughter, Sandra, where he was raised?

11 A. Yes.

12 Q. Did William spend some time at your house
13 visiting?

14 A. Yes. When he was a young boy growing up,
15 yeah.

16 Q. Was he always good for you, well-behaved?

17 A. He was good. I didn't have no problem
18 with him.

19 Q. Is there a nickname that all your
20 grandchildren call you?

21 A. (Laughs) -- well, my grandchildren, they
22 called Little One. They all just give me a
23 nickname, you know.

24 Q. Do some of them call you The Rock.

25 A. That is my granddaughters, my grand-

1 daughters call me The Rock.

2 Q. Why do they call you The Rock?

3 A. I don't know, just a nickname that they
4 have given me.

5 Q. You love William?

6 A. I love all my grandchildren, yes. I love
7 him.

8 Q. You've know him a long time?

9 A. Yes, I've knew him a long time.

10 Q. Is there anything today that you want to
11 ask?

12 A. Is there anything that I want to ask?

13 Q. Is there anything that you want to ask of
14 ---

15 A. Oh, well, right here and now I would ask
16 the judge to have mercy on him. He is my
17 grandson and -- can I say what I want to say?

18 Q. That speaks volumes. That's fine. Thank
19 you, ma'am, so much.

20 A. Okay.

21 Q. Let me ask you lastly, was there a time
22 when William, around the kindergarten period,
23 received a special award?

24 A. Yes.

25 Q. Is that reflected in this photograph,

State of South Carolina v. William O. Dickerson
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Jury Trial of April 20 - May 7, 2009
Before The Honorable R. Markley Dennis, Jr.

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1 Defendant's Exhibit 33?

2 A. Yes.

3 MR. BLOOM: Your Honor, we would
4 move Defendant's Exhibit 33 into evidence.

5 THE COURT: Any objection?

6 SOLICITOR WILSON: No, sir.

7 THE COURT: Without objection, it is
8 admitted.

9 (SO ENTERED AS DEFENDANT'S EXHIBIT 33)

10 MR. BLOOM: Ms. Watson, thank you so
11 much. I don't have any other questions.
12 Please answer any questions that the Solicitor
13 may have.

14 THE COURT: Any questions,
15 Solicitor?

16 SOLICITOR WILSON: No, sir.

17 THE COURT: Thank you, Ms. Watson.
18 You may step down.

19 (WITNESS STEPS DOWN)

20 THE COURT: Mr. Bloom, do you have
21 any additional witnesses?

22 MR. BLOOM: Not at this juncture.
23 There may be some matters of law, if we could
24 take those up.

25 THE COURT: I understand. At this

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Before The Honorable R. Markley Dennis, Jr.

1 point, Ladies and Gentlemen, we are going to
2 recess for the evening. Do not begin your
3 deliberations, do not discuss the case with
4 anyone or permit anyone to discuss it with you
5 or in your presence. Thank you for going to
6 6:00 o'clock this evening.

7 Tomorrow, I believe we will be at the
8 point we will be submitting the case to you, so
9 get a good night's rest. Remember what you
10 have promised throughout, and I know you have
11 honored that and will honor that, do not begin
12 the process of making any decisions or changing
13 that open mind that you brought with you in
14 this second phase. Thank you for your
15 attention. Have a good evening. I'll see you
16 in the morning at 9:30.

17 (JURY OUT @ 6:00 P.M.)

18 THE COURT: Thank you, Mr. Bloom.
19 Sorry, I was a little slow on the uptake.

20 MR. BLOOM: Your Honor, we have no
21 other witnesses. We rest. I would have said
22 in front that we rest but I know you wanted to
23 question Mr. Dickerson.

24 THE COURT: Precisely. We can do
25 that tomorrow. That's not a problem. I thank

1 you for bringing that to the court's attention,
2 sir.

3 MR. BLOOM: We are prepared to do
4 that whenever you like. I would just alert the
5 court that he does not intend to testify and he
6 does not intend to address the jury.

7 THE COURT: We can discuss that.
8 Does the State have any additional testimony,
9 in reply?

10 SOLICITOR WILSON: No, sir.

11 THE COURT: Very well. Mr.
12 Dickerson, good afternoon, sir. It's been a
13 long day for everybody in this courtroom and
14 I'm certain for you as well.

15 You have an opportunity and you and I
16 have had an opportunity to talk about your
17 right to -- you don't have to stand, you can
18 remain seated. Thank you very much. I
19 appreciate it. Thank you both, Mr. Carroll and
20 Mr. Bloom, for the observance of courtroom
21 decorum but it is not required.

22 You and I talked earlier in the week
23 about your right to testify or not to testify.
24 You had indicated to me at that time that you
25 believed that you were going to exercise your

1 right not to testify.

2 DEFENDANT: Yes, sir.

3 THE COURT: Is that still your
4 decision, sir?

5 DEFENDANT: Yes, sir.

6 THE COURT: As far as you're
7 concerned, that will be your final decision?
8 You believe.

9 DEFENDANT: Yes, sir.

10 THE COURT: All right. Do you know
11 of anything that is affecting your ability to
12 make decision, Mr. Dickerson?

13 DEFENDANT: No, sir.

14 THE COURT: Have you had sufficient
15 time to think about it?

16 DEFENDANT: Yes, sir.

17 THE COURT: Again, your attorneys
18 have been available. You are satisfied fully
19 with the manner in which they have advised you
20 and ---

21 DEFENDANT: Yes, sir.

22 THE COURT: --- presented this
23 matter on your behalf?

24 DEFENDANT: Yes, sir.

25 THE COURT: Also they've talked with

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1 you and, as you know, you have the right to
2 speak with the jury. You and your attorneys
3 have the right to make the final argument in
4 this case. You have a right to speak in
5 addition to your attorneys. Do you understand
6 that?

7 DEFENDANT: Yes, sir.

8 THE COURT: Do you intend to
9 exercise that right, sir?

10 DEFENDANT: No.

11 THE COURT: Will you be speaking to
12 the jury?

13 DEFENDANT: No, sir.

14 THE COURT: You choose not to?

15 DEFENDANT: Yes, sir.

16 THE COURT: And that's what you want
17 to do?

18 DEFENDANT: Yes, sir.

19 THE COURT: You fully understand
20 that you have the right to do that?

21 DEFENDANT: (Affirmative nod),
22 fully.

23 THE COURT: And you have already
24 demonstrated that you can do that?

25 DEFENDANT: Yes, sir.

1 THE COURT: But you at this point do
2 not wish to do that?

3 DEFENDANT: No, sir.

4 THE COURT: So you specifically
5 waive that?

6 DEFENDANT: Yes, sir.

7 THE COURT: Are you under the
8 influence of any alcohol or any drugs here
9 today, sir?

10 DEFENDANT: No.

11 THE COURT: Do you know of anything
12 that is affecting your ability to make that
13 decision?

14 DEFENDANT: Nothing. It was great
15 seeing grandma.

16 THE COURT: I understand that.

17 DEFENDANT: That -- I, good.

18 THE COURT: I understand that very
19 well. Family members, when they move into
20 different stages of life it brings back a lot
21 of things.

22 DEFENDANT: Yes, sir.

23 THE COURT: I understand that. I am
24 going to assume that your decision will be that
25 which you've just indicated to me this

1 afternoon.

2 According to my -- according to the
3 clock on the wall, according to my watch it is
4 6:00 p.m. on May the 6th. We will resume in
5 the morning at 9:30. Before -- I am not going
6 to revisit this again in the morning unless you
7 tell me through your attorneys that you have
8 thought about it overnight and you want to talk
9 with me.

10 DEFENDANT: Yes, sir.

11 THE COURT: If I don't hear from
12 your attorneys when we bring in the jury, I'll
13 try to Mr. Bloom and ask if there are any
14 additional witnesses. He's going to, I assume,
15 say that the defense rests. Then the State
16 will say the State rests. That will conclude
17 the evidentiary portion, as you recall, and you
18 understand that?

19 DEFENDANT: Yes, sir.

20 THE COURT: If I haven't heard from
21 you, I am going to assume that you stand by the
22 responses that you have given to me and that
23 that is your decision, one ---

24 DEFENDANT: Yes, sir.

25 THE COURT: --- that you wish to

1 make, and one that you make freely,
2 voluntarily, knowingly and intelligently?

3 DEFENDANT: Yes, sir.

4 THE COURT: Is that a fair
5 assessment and a fair conclusion on my part?

6 DEFENDANT: Yes, sir.

7 THE COURT: And it is based on your
8 true statements to me?

9 DEFENDANT: Yes, sir.

10 THE COURT: Very well. Thank you
11 very much, Mr. Dickerson.

12 I find that Mr. Dickerson, as I've
13 stated throughout, has had the benefit of very
14 competent counsel in this matter. He's
15 indicated that he is totally satisfied with
16 their representation.

17 I find that he again has demonstrated
18 an understand of his rights in this matter,
19 specifically with respect to his right to
20 testify or not testify and his right to make a
21 final argument to the jury. Mr. Dickerson has
22 indicated to me that he freely, voluntarily,
23 knowingly and intelligently is waiving his
24 right to testify and waiving his right to make
25 a final argument in this case. Again, I find

1 that to be with full knowledge and appreciation
2 and understanding, and nothing is affecting his
3 ability to make that decision.

4 Thank you all.

5 Is specific requests to charge? The
6 charge that is in that -- both the Cleary
7 charge, I see you have a copy of it. It's
8 pretty much the charge. It's basically the
9 same one that I gave in the Cottrell case that
10 Bill Nettles had. I don't think it is anything
11 unusual.

12 I would like for you -- let's talk
13 now. Obviously the aggravating circumstances
14 are criminal sexual conduct first degree,
15 kidnaping and torture. I believe that those
16 would be the only three listed.

17 In reading last night, -- it's been
18 awhile since I've had one where we had the
19 crime proven and we've incorporated that. I
20 intend to -- but the jury has to again conclude
21 beyond a reasonable doubt, as I understand the
22 law, that that has been established and they
23 are entitled to rely on the evidence from the
24 first phase, as well. What I would propose to
25 do is to tell them that I have previously

1 defined those charges for them. I will make
2 available, should they want that in their
3 deliberations, if they need to revisit my
4 charge defining the offenses of criminal sexual
5 conduct in the first degree and kidnaping, I
6 will have. I may just send it back to them.
7 That's the charge that they have, as a court's
8 exhibit. Because they have to make another
9 finding beyond a reasonable doubt.

10 SOLICITOR WILSON: The only thing
11 that concerns me is that just this week, I
12 thought that someone told me that there is an
13 opinion about a judge sending back part of the
14 charge in writing but not the other part.

15 THE COURT: Well, we -- I haven't
16 seen that. We've sent the entire charge. I'm
17 going to send the entire charge in this one.

18 SOLICITOR WILSON: Good.

19 THE COURT: And I am going to send
20 the entire charge in the first one back, if
21 they need it.

22 SOLICITOR WILSON: Okay.

23 THE COURT: I am just saying that
24 the court's exhibit which accompanied them
25 during the first deliberation, I will tell them

1 that if they need to reference that to refresh
2 their recollection of what the charge, what
3 they found -- what they considered. I am not
4 going to say what they found. You can say what
5 they found.

6 But rather than include that in a
7 charge and reiterate -- I am going to recharge
8 reasonable doubt and I am going to recharge,
9 obviously, the right not to testify. I am
10 going to recharge the evidence issue and that
11 process. Expert witnesses are going to be
12 recharged, as well. I may include -- because I
13 am going to define torture, I may include just
14 a brief sentence about criminal sexual conduct
15 in the first degree is sexual battery on a
16 person, and kidnaping. Just a brief sentence.
17 I'll work on that tonight.

18 The mitigating circumstances, as you
19 see them, are -- I believe that was contained
20 in the testimony of the three witnesses ---

21 MR. BLOOM: Yes, sir.

22 THE COURT: --- specifically. There
23 are three that I recall in addition to the
24 nonstatutory mitigating circumstances.

25 MR. BLOOM: That's correct.

1 THE COURT: But you had mentioned
2 age. I don't see where age is an issue in this
3 particular case.

4 MR. BLOOM: It's just a part of that
5 sentence of that mitigator. I didn't read the
6 whole thing.

7 THE COURT: Okay. Those are the
8 only ones that I have, that I think that I need
9 to list. Think about it overnight. I can
10 easily add that to that portion of the charge.

11 MR. BLOOM: On thinking on it, I
12 think that we would request the age or the
13 mentality of that entire sentence. As I think
14 on it, I believe that a witness in Aiken said,
15 given the Defendant's age, that makes him a
16 better adjustment to prison. So it would be
17 relevant in that regard, because as he ages,
18 gets older, it makes him a better adjusted
19 inmate.

20 THE COURT: That deals with
21 suitability of prison.

22 MR. BLOOM: Yes, sir.

23 THE COURT: That's not a mitigating
24 circumstance, is it? To me, mitigating factors
25 are something that -- I will look at it. I

1 assure you that if it is part of it, I will
2 include it. For the sake of -- I am not going
3 to quibble with you about that. I understand
4 your rationale for that, I don't fault your
5 argument at all. I agree that that testimony
6 is there.

7 Other than that, there are no other
8 mitigating factors that I can think of.

9 MR. BLOOM: Just those three.

10 THE COURT: All right. I will have
11 those charges printed and I'll make you'all a
12 packet. I at this time will give each juror
13 -- because I give them that charge when I read
14 it to them, so that they can have it and follow
15 along when we get to this stage. I will only
16 let one go back to the jury room but each one
17 of them will have a copy of the charge portion
18 -- not the form that they have to fill out, but
19 -- and in that regard, the old form -- there is
20 an old form that talked about aggravating
21 circumstances. I am not sure if that was
22 developed later or not, but I apparently -- I
23 use the one that to me makes sense, because no
24 form has that they didn't find an aggravating
25 circumstance beyond a reasonable doubt. That's

1 part of the choice, which gives them an option
2 rather than just a form that says what are the
3 aggravating circumstances? I think that is
4 more appropriate, that they should have that
5 option, that they did not find an aggravating
6 circumstances beyond a reasonable doubt. That
7 would be a choice that they could make, that's
8 part of my charge. That will be the only
9 change from that book.

10 There is one that says "we find" and
11 of course each juror has to sign that one, they
12 have to write them out. I will charge them the
13 aggravating circumstances, I will give them a
14 list that has those enumerated and then tell me
15 that they have to make a finding on that
16 particular form, that's explained to them.
17 Okay?

18 MR. BLOOM: You'll make available to
19 use a copy of charge and the verdict form prior
20 to our closing argument?

21 THE COURT: Absolutely. I should
22 have that in the morning when we start.
23 Anything else?

24 MR. BLOOM: No, sir.

25 THE COURT: Thank you all.

1 SOLICITOR WILSON: Thank you.

2 THE COURT: See you in the morning.

3 (COURT IN RECESS)

4 (TRANSCRIPT CONTINUED NEXT PAGE)

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1 MAY 7, 2009

9:30 A.M.

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3

(OFF RECORD BENCH CONFERENCE)

4

(OFF RECORD REVIEW OF EXHIBITS BY COUNSEL)

5

(DEFENDANT PRESENT)

6

THE COURT: Good morning, let the

7

record reflect that the Defendant is present.

8

Mr. Dickerson, good morning, sir.

9

DEFENDANT: Good morning.

10

THE COURT: Good morning, Mr. Bloom,

11

Mr. Carroll. As of now you are still planning

12

to rest?

13

MR. BLOOM: Yes, sir. There are

14

three exhibits that we need to move to be

15

admitted. One is Defendant's Exhibit 24, a

16

photograph from Tara Hall that Mr. Dunn

17

identified. I thought that I had moved it into

18

evidence but would do so at this time.

19

THE COURT: Any objection?

20

(SO ENTERED AS DEFENDANT'S EXHIBIT 24)

21

SOLICITOR WILSON: No objection.

22

MR. BLOOM: Then the others are

23

State's Exhibit 348 and 349. I would ask those

24

be marked as Defendant's Exhibit and move those

25

in. They were the two letters that Mr.

1 Dickerson wrote while in prison, that Dr.
2 Cunningham was cross-examined about. Under the
3 rule of completeness, I would ask that they be
4 admitted.

5 THE COURT: Any objection?

6 SOLICITOR WILSON: Yes, sir.

7 THE COURT: What is the objection?

8 SOLICITOR WILSON: I don't believe
9 that they are necessary. The point of that
10 cross-examination was that the Defendant knew
11 how to get help. That's what we elicited from
12 him. All the rest is extraneous stuff about
13 trying to get help in prison is not relevant.
14 It doesn't change anything about his testimony.
15 He could have asked other questions but he
16 chose not.

17 THE COURT: I think in conjunction
18 with the purpose for which it was offered, I
19 think it does give completeness, is necessary
20 for that, that it will show ---

21 SOLICITOR WILSON: Have you read
22 it?

23 THE COURT: I've read it and all it
24 talks about is 'I'm trying to get help' and
25 that goes specifically to his character and

1 specifically his ---

2 MR. BLOOM: Both letters, that's all
3 that they are about. There is no extraneous
4 material.

5 THE COURT: I will be happy to look
6 at it.

7 COURT REPORTER: (Tenders State's
8 Exhibits 349 and 348 to Judge).

9 THE COURT: (Upon review), I think
10 that goes directly to the issues in the second
11 phase, everything in that letter, and that was
12 349.

13 I'll read 348 now. (Upon review),
14 okay.

15 SOLICITOR WILSON: I also believe
16 that it is hearsay as offered by the Defendant.

17 THE COURT: It goes to completeness
18 issue, Solicitor. You offered a portion of it
19 and that is the problem. I don't have any
20 problem with that part of it. I agree with
21 you, except for the fact that you offered it
22 and it goes, exactly as it did in the first
23 phase with some of the exhibits that you
24 offered. It simply makes the content correct.
25 It doesn't just deal with one aspect stressed

1 on cross examination. In the light of the
2 completeness necessary, which is part of this
3 second phase, I differ with you. It is
4 admitted subject to objection of the State, 348
5 and 349.

6 (SO ENTERED AS DEFENDANT'S EXHIBIT 34 -
7 SAME AS STATE'S EXHIBIT 348)

8 (SO ENTERED AS DEFENDANT'S EXHIBIT 35 -
9 SAME AS STATE'S EXHIBIT 349)

10 THE COURT: Anything else?

11 MR. BLOOM: Thank you, Your Honor.

12 That is Defendant's Exhibit 34 and 35?

13 COURT REPORTER: Yes, sir.

14 THE COURT: Anything else from the
15 Defendant?

16 MR. BLOOM: That is all, Your Honor.
17 Thank you very much.

18 THE COURT: And the State still does
19 not intend to call any additional witnesses?

20 SOLICITOR WILSON: No, sir.

21 THE COURT: Thank you very much.
22 Let's bring in our jury.

23 (JURY IN @ 9:43 A.M.)

24 THE COURT: Please be seated. Thank
25 you, Ladies and Gentlemen. I hope you had a

1 good evening. We are now ready to resume this
2 matter. Let me ask if each of you do solemnly
3 swear or affirm that you have not talked with
4 anyone, permitted anyone to talk with you, that
5 you have not discussed the case among yourself
6 nor have you read anything or viewed any news
7 accounts. If you can make that commitment,
8 please say "I do."

9 (UNANIMOUS AFFIRMATIVE RESPONSE)

10 THE COURT: Is there any jury that
11 cannot make that commitment for any reason?

12 (No response).

13 Thank you very much again, Ladies and
14 Gentlemen. All right. We have gone through
15 the witnesses. Mr. Bloom, as I understand from
16 our conference prior to the jury entering, Mr.
17 Dickerson does not desire to present any
18 additional testimony. Is that correct?

19 MR. BLOOM: That's correct, Your
20 Honor, the defense rests.

21 THE COURT: No further response from
22 the State, reply testimony, Solicitor?

23 SOLICITOR WILSON: No, sir.

24 THE COURT: Ladies and Gentlemen,
25 then that will conclude the evidentiary portion

1 of this proceeding. We still have, as you know
2 because you have already participated in this,
3 the closing arguments of the attorneys and then
4 the instruction on the law.

5 There are some matters that I need to
6 take up briefly now out of your presence. I am
7 going to ask you to go to your jury room but
8 please do not begin your deliberation. While
9 you will not hear any more evidence in either
10 of these phases, as you know the closing
11 remarks of the attorneys, and I responded to
12 one of your questions in the first phase,
13 that's for your -- that's to help you, to
14 assist you in analyzing the evidence and in
15 applying the law. Their remarks are extremely
16 important and you should give them your
17 undivided attention, as I am confident that you
18 will, but while very important they should
19 never be considered evidence.

20 Of course, my remarks deal with the
21 law. You've promised to accept that law and
22 apply that law fairly and impartially -- as
23 you've already been through this process once
24 before, so you know that. But my remarks also,
25 while the law is important to this process,

1 should never be considered evidence either.

2 You are not going to hear any evidence
3 but it is still improper, still would be
4 inappropriate for you to begin the process of
5 deliberation, either individually or
6 collectively. Don't change your open mind. We
7 will be with you quickly. I ask that you go to
8 your jury room for just a few moments.

9 (JURY OUT @ 9:47 A.M.)

10 THE COURT: Okay. Any matters from
11 the State at this point?

12 SOLICITOR WILSON: No, sir.

13 THE COURT: Mr. Bloom?

14 MR. BLOOM: Just that we had a bench
15 conference and Your Honor agreed -- also I
16 should note, and I apologize, I meant to do
17 this yesterday at the end of the day. We had a
18 bench conference where Mr. Durant's cross
19 examination of Dr. Phillips, to which I
20 objected because Mr. Durant was about to go
21 into questioning Dr. Phillips about whether the
22 Defendant knew right from wrong. I objected at
23 a bench conference to that. The insanity
24 standard is not relevant at this stage. Your
25 Honor sustained that objection in part but

1 allowed Mr. Durant to ask if he knew right from
2 wrong. I just wanted to put that brief
3 exchange in the record to note our objection to
4 that one question.

5 THE COURT: I think the question
6 that was given and the answer -- I've had a
7 chance to watch on television now as well his
8 responding to that, at least the part that they
9 played. I think it was a very pertinent and a
10 very proper question, did he appreciate what he
11 was doing was wrong? No question he testified
12 that he did. I don't think it came close to
13 the standard that you were concerned about,
14 that is the not guilty by reason of insanity.
15 That hasn't been raised in this case. It's not
16 an issue.

17 MR. BLOOM: Yes, sir.

18 THE COURT: Your objection is noted
19 and preserved. In that regard, if the
20 Solicitor intends to argue to the jury that he
21 knew right from wrong, we would object to that.
22 It's our understanding that Your Honor has
23 instructed not to use the right-from-wrong.

24 THE COURT: I said -- if he uses it,
25 I am not going to stop him. I just ask that he

1 say that he knew what he was doing was wrong,
2 not that he knew the difference between right
3 and wrong.

4 MR. BLOOM: That would be my
5 objection. Thank you, Your Honor.

6 THE COURT: Okay. Which I think is
7 the same thing, but anyway -- I understand that
8 in these cases that they sometimes deal with
9 semantics. I've learned through mistakes, and
10 I try not to make them again.

11 I have and will constantly use "life
12 without parole". In a case that I tried of
13 this case, I was asked prior to some of the
14 other things that have come out what did "life"
15 mean? I said that it means the person will die
16 in prison. I thought that was just natural
17 language, indicative that he would never get
18 out. They said no, that you had to say that
19 there "was no possibility of parole."

20 I understand how they look at words.
21 I use that to -- I am not going to find it
22 objectionable but it certainly would be
23 helpful, I think, for review purposes should
24 that be necessary.

25 Anything else?

1 MR. BLOOM: Nothing, Your Honor.

2 THE COURT: Anything from the State?

3 SOLICITOR WILSON: No, sir.

4 THE COURT: Let's take five minutes
5 or so. Are you'all ready to go?

6 BRUCE DURANT: I'm ready.

7 THE COURT: You're ready now?

8 BRUCE DURANT: Let's take a rest-
9 room break.

10 THE COURT: Sure. How long do you
11 anticipate that your arguments will be?

12 BRUCE DURANT: Twenty minutes.

13 MR. BLOOM: I will try not to go
14 through forty-five. I figure ---

15 THE COURT: Okay. Then I will
16 probably let you both argue before we take a
17 break. That way we can get set up with the
18 copies put in the chairs and everything else.

19 MR. BLOOM: I also want to note for
20 the record that it is clear Mr. Dickerson has a
21 right to closing argument, Mr. Carroll has a
22 right to closing argument, and I do as well
23 under the statute but, for strategy purposes, I
24 will be the only person making a closing
25 argument.

1 THE COURT: Thank you very much.

2 Again, the record is -- Dr. Dickerson, in
3 honoring our discussion, I did not hear
4 anything so I assume your decision remains that
5 you do not wish to address the jury in closing
6 argument?

7 DEFENDANT: No, sir.

8 THE COURT: That is still your
9 decision this morning?

10 DEFENDANT: Yes, sir.

11 THE COURT: Okay. Take just a
12 minute.

13 (BRIEF RECESS)

14 (DEFENDANT PRESENT)

15 THE COURT: Let's bring the jury.

16 (JURY IN @ 10:00 A.M.)

17 THE COURT: Thank you very much,
18 Ladies and Gentlemen. We will now move into
19 the closing arguments. Please give your
20 attention to the attorneys as they give their
21 closing remarks. Mr. Durant?

22 BRUCE DURANT: Thank you, Your
23 Honor.

24 THE COURT: Yes, sir.

25 BRUCE DURANT: Good morning,

1 Ladies and Gentlemen. We are now coming to the
2 end of a rather lengthy case and in a few
3 minutes, after you've heard us argue and Judge
4 Dennis charges you on the law, you will retire
5 to the jury room to reach a verdict in this
6 case. After that, you will return to your
7 normal lives.

8 I would like to take this opportunity,
9 on behalf of the State of South Carolina, on
10 behalf of Solicitor Wilson and myself, to thank
11 you for your service as jurors in this case.

12 Indeed, our system of justice requires
13 fair-minded jurors to operate. We need you to
14 decision our cases, and now you have one more
15 decision to make in this case: What is the
16 appropriate punishment for William Dickerson,
17 life or death?

18 To get to that point, as I told you in
19 the opening, you have to find the existence of
20 an aggravating circumstance beyond a reasonable
21 doubt. There are three that will be submitted
22 to you by the State in this case. Those are
23 that the murder of Gerard Roper occurred during
24 the commission of criminal sexual conduct,
25 kidnaping and torture -- physical torture. You

1 do not need to find the existence of all three
2 of those but you have to find the existence of
3 one of them beyond any reasonable doubt to
4 consider the imposition of the death penalty in
5 this case.

6 As I also told you in the opening,
7 you've essentially found that two of these
8 exist already beyond any reasonable doubt by
9 the verdicts that you returned last Thursday
10 finding this Defendant guilty of kidnaping,
11 criminal sexual conduct. But the law requires
12 that you consider it once again. The Judge
13 will charge you on the law on criminal sexual
14 conduct and kidnaping. As it existed last
15 Thursday beyond a reasonable doubt, it exists
16 today beyond a reasonable doubt.

17 Then there is a third aggravating
18 circumstance that can you can consider in this
19 case, and that is physical torture. On this
20 point you have heard the testimony of Dr.
21 Schandl. Gerard Roper sustained over two
22 hundred wounds. All of those wounds occurred
23 post-mortem, all two hundred of them, while he
24 was alive, while he could feel them. Most of
25 those wounds were not fatal, most of those

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1 wounds were designed to inflict pain and not to
2 kill.

3 Most importantly you learned of, by
4 her testimony concerning the abscess that had
5 formed in the anal area, that this torture had
6 this torture on gone on for at least eighteen
7 hours, that there was a period of at least
8 eighteen hours between the time Gerard Roper
9 was savagely sodomized and the time he finally
10 expired. Eighteen hours of suffering.

11 You will have the photographs from the
12 autopsy. As they say, a picture speaks a
13 thousand words. Truer words were never spoken
14 than in this case. You may not be able to
15 define "torture" but you'll know it when you
16 see it. When you see those pictures, you will
17 know it.

18 Mr. Carroll stated in his closing
19 argument that Gerard Roper did not deserve, nor
20 did any human being on this planet, deserve
21 what Gerard Roper had to endure at the hands of
22 that man, William Dickerson, over the last
23 eighteen hours of his life.

24 Ladies and Gentlemen, the aggravating
25 circumstances have been proven beyond a

1 reasonable doubt in this case, all three of
2 them. That is not the issue.

3 The next step is for you to proceed to
4 consider the appropriate sentence. I would
5 remind each of you that at the beginning of
6 this case you took an oath and by that oath you
7 stated that you could fairly consider both
8 forms of punishment in this case: life
9 imprisonment without the possibility of parole
10 or the death sentence.

11 Each of you will have to come to an
12 individual decision but all twelve of you will
13 have to collectively reason and discuss to
14 arrive at an appropriate verdict in this case.
15 You must heard and consider others opinions and
16 points of view because a fair and reasonable
17 jury verdict is based on this give-and-take and
18 full discussion. If for any reason during the
19 deliberation any of you or your fellow jurors
20 determine that you cannot follow your oath,
21 that you cannot fairly consider both forms of
22 punishment in this case, I would ask that you
23 let your foreman and this court know.

24 In reaching a verdict, you can
25 consider both the circumstances of the crime

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1 that was committed against Gerard Roper on May
2 7th and 8th of 2006 as well as the character
3 and characteristics of this Defendant.

4 You know the State is asking for the
5 death penalty. You may hear argument that the
6 death penalty is wrong, that it is not right to
7 require this defendant to pay the ultimate
8 price for the crime that he has committed.

9 But, Ladies and Gentlemen, the death
10 penalty is legal and proper. The State can ask
11 for the death penalty under our law. Under our
12 law the death penalty can be imposed only under
13 certain circumstances, in limited cases. It is
14 a legal process, it is a legal penalty for
15 certain horrendous murders, it's a function of
16 our government, it was enacted by our
17 Legislature, it has been approved by our courts
18 and it is carried out by its citizens
19 -- by you, the jury.

20 You are shaping a lawful punishment
21 for a very unlawful act. This responsibility
22 has been given to you by our Legislature and by
23 the oath that you took as jurors in this case.
24 You have accepted that responsibility to carry
25 out fairly and impartially -- there is nothing

1 wrong with what you're doing, there is nothing
2 that you need feel guilty about.

3 That being said, we know that this is
4 a tough decision for you to make. It's a tough
5 decision for the State to have to ask you for
6 death. But responsible people make tough
7 decisions all the time, we make them with our
8 marriages, with our children, with our family,
9 with our job. This process makes you
10 responsible for this decision. All that we ask
11 is that you would handle it in the same manner
12 that you would handle any other important
13 decision in your life, that you consider the
14 facts in evidence, that you consider the
15 alternative solutions and that you arrive at
16 the most appropriate solution. We trust that
17 if you follow that approach that you will
18 arrive at the right result in this case.

19 Let me talk to you about mercy. Mercy
20 does not exist in the heart of William
21 Dickerson. Mercy did not exist in Apartment E-
22 3 at 311 Fleming Road on March 7th and March
23 the 8th of 2006. They may talk to you about
24 mercy, they may ask you to give William
25 Dickerson his life as an act of mercy. It is

1 natural to want to be merciful, it is human
2 nature but mercy is not automatic. If it were
3 automatic, we would not even have the death
4 penalty. Mercy is something that you receive
5 that you do deserve.

6 We would ask that you focus on
7 justice. Justice is receiving what you do
8 deserve. Justice is what this process is all
9 about. What punishment does this Defendant
10 deserve? If you want to give him mercy, that
11 is your right, that is your prerogative under
12 the law but Gerard Roper deserves justice.
13 This is his day in court, not just Mr.
14 Dickerson's. His life was senseless cut short
15 and justice is what he deserves. Do not forget
16 him because he is not here, do not forget the
17 pain and the anguish and the torment, the
18 suffering that he endured over the last hours
19 of his life on this earth.

20 If they should ask you for mercy, ask
21 yourselves why does he deserve mercy rather
22 than justice? No, it's not enjoyable to stand
23 up here and ask you for the death penalty but
24 it is necessary.

25 We don't want to hurt his family, but

1 I ask you to remember -- and if you remember
2 nothing else, remember this, we are here today
3 because of the acts of William Dickerson, we
4 are here today because of the choices made by
5 William Dickerson.

6 We are not here because of his bad
7 childhood, we are not here because of his drug
8 use, we are not here because he had a bad mama
9 and a bad daddy, we are not here because of
10 DSS, we are not here because of Shelley Nelson.
11 He brought us here. It is his responsibility,
12 he is responsible for the choices and decisions
13 that he made on March the 7th and March the
14 8th, 2006. He is responsible for the choices
15 that he has made through his entire life.

16 They may argue that he had a bad
17 childhood, a bad mama, that he used drugs and
18 that he should get the minimum sentence. But
19 surely there's more to punishment in a case
20 like this. It's true that he was not raised in
21 the best neighborhood, it's true that he and
22 his mama didn't get along, it's true that he
23 had many of the risk factors that Dr.
24 Cunningham talked about. But as Dr. Cunningham
25 also states, it always comes down to a matter

1 of choice. When you look at the decisions and
2 choices that William Dickerson has made in this
3 case and in his life, consider that:

4 He has a normal IQ, he's not mental
5 deficit. He has no mental illness other than
6 the depression that was diagnosed when he was
7 eleven years of age.

8 He has no organic brain injury.

9 Despite the demon that they have made
10 Sandra Fokes out to be, she tried to get him
11 help. She was the one that took him to MUSC,
12 she is the one that took him to William S.
13 Hall, she is the one that put him in Tara Hall.
14 He has had opportunities that a lot of other
15 folks coming from similar backgrounds did not
16 get.

17 Despite the opportunities that he had,
18 he chose a life of violence and a life of
19 lawlessness. Beginning as a juvenile, it
20 continued with the Hester Park armed robbery
21 where he pistol-whipped one of the victims and
22 shot at the victims without any provocation,
23 continuing on when he tried to shoot Officer
24 Cestedos, and later when he beat up his
25 girlfriend Shelley Nelson, culminating on March

1 the 7th and March the 8th of 2006 when he
2 tortured and murdered his best friend.

3 Ladies and Gentlemen, his drug use is
4 not an excuse either. Millions of people in
5 this country use cocaine, millions of people in
6 this country are addicted to cocaine. There
7 are not millions of cocaine addicts in this
8 country that torture and murder their best
9 friend.

10 They can try to blame his conduct on
11 paranoia and cocaine psychosis but the fact of
12 the matter is that if all boils down to William
13 Dickerson. William Dickerson tortured and
14 killed Gerard Roper because he thought Gerard
15 was messing around with his girl, plain and
16 simple. You know that, Ladies and Gentlemen,
17 because of what he did to Gerard Roper -- by
18 burning his scrotum, by sodomizing him with a
19 .357 Magnum, by sodomizing him with a brook
20 stick, by torturing him. Are those the acts of
21 a man that is scared and paranoia, or are those
22 the acts of a man that is angry and jealous?
23 You make the call.

24 No, Ladies and Gentlemen, cocaine did
25 not kill Gerard Roper. William Dickerson

1 killed Gerard Roper. Just like cocaine did not
2 rob those people in Hester Park, just like
3 cocaine did not try to shoot Officer Cestedos
4 in the head, all of which occurred long before
5 the alleged cocaine psychosis.

6 So why is the death penalty the
7 appropriate penalty in this case? It is a
8 legitimate question. Quite simply, there are
9 people in this world that are so evil, that are
10 so mean, that are so depraved that they just do
11 not deserve to continue to walk among the
12 living -- no matter how confined they may be.

13 The law limits the State's right to
14 seek the death penalty to just a very murders
15 involving aggravating circumstances. The death
16 penalty is for the worst of the worse, for
17 those whose conduct is so over the top that it
18 sets them apart from ever the rest of the
19 criminals. William Dickerson, his murder of
20 Gerard Roper is one of those cases.

21 Punishment and death penalty are about
22 accountability, responsibility for choices.
23 William Dickerson had a choice on March the
24 7th, March the 8th, 2006, to kill Gerard Roper
25 or to let him go. We are here today because of

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1 the choices he made. It was an intentional
2 choice, it was a willful choice, and his
3 punishment should reflect the degree and
4 magnitude of those choices.

5 Bad decisions and bad judgment have
6 consequences. An intentional and premeditated
7 act should have severe consequence. We must
8 hold people accountable when their conduct is
9 so brutal, so atrocious as to justify the most
10 severe punishment.

11 William Dickerson had the ability to
12 make choices. He was not mentally deficit, he
13 did not suffer from a mental illness. He knew
14 what he was doing was wrong. Yet he chose
15 evil, he chose brutality, he chose savagery.
16 The punishment you impose should reflect
17 accountability for those choices.

18 I would ask you to consider this, that
19 after you've found an aggravating circumstance
20 in this case beyond a reasonable doubt, life
21 imprisonment is the least of the two
22 punishments that the law allows, the minimum
23 punishment. Does this case deserve the least
24 or the minimum punishment or the most severe?

25 What is the appropriate sentence for

1 the damage done to Gerard Roper in the taking
2 of his life? He was the father of small
3 children, he had a right to continue to live,
4 to see his children grow up, to care for them,
5 to love them, to hold them and protect them, to
6 enjoy life through his children like the rest
7 of us. William Dickerson stole that. It was a
8 senseless destruction of life and now they
9 argue that he should be given life imprisonment
10 because he can be managed in prison. That may
11 be true but the point is -- the point is, why
12 should deserve that chance? Why does he
13 describe the least, the easiest thing that can
14 be done to him?

15 If the death penalty is not
16 appropriate in this case, when would it ever be
17 appropriate? This man kidnaped his best friend
18 at gunpoint, he took him to his brother's
19 apartment, he held him captive for a day, he
20 pistol-whipped him, he beat him, he knocked his
21 teeth out, inflicted over two hundred wounds to
22 his body, he burned his scrotum, he sodomized
23 him a .357 revolver, he sodomized him with a
24 broomstick, and he executed him.

25 You will have these photographs in the

1 jury room -- (laying photos along jury rail).
2 I would ask you to look at them. You know, I
3 can stand up here and talk all day and still
4 not convey to you what is conveyed in those
5 photographs. Look at them. I know that they
6 are not pleasant but more effectively than
7 anything that I can say to you they show the
8 brutality in that man's heart and the agony
9 endured by Gerard Roper.

10 You have been entrusted under our law
11 and our system to shape a punishment that fits
12 this crime. You twelve have been entrusted as
13 representatives of this community to fashion
14 the appropriate sentence under the facts of
15 this case. You now know this case as well as
16 anybody. We ask you to let Mr. Dickerson and
17 anyone else so minded that in this community
18 you ---

19 MR. BLOOM: Objection to "this
20 community".

21 THE COURT: Sustained.

22 BRUCE DURANT: --- cannot abduct,
23 beat, mutilate, torture and kill and expect to
24 walk out of this courtroom with the minimum
25 sentence. Those who commit this type of crime

1 must pay the ultimate price. Remember, the
2 death penalty is for the worst of the worse.
3 William Dickerson is the worst of the worse and
4 he needs to be held accountable. Thank you.

5 THE COURT: Thank you, Solicitor.
6 Mr. Bloom.

7 MR. BLOOM: May it please the Court?

8 THE COURT: Yes, sir.

9 MR. BLOOM: I want to thank you for
10 your time. You have spent three weeks now that
11 we have taken you from your homes, your
12 families, your jobs and I sincerely thank you
13 for the time you have spent in this case.

14 Now, the choice is yours. It's not
15 complicated. Judge Dennis is going to give you
16 the law and we will talk about that in a
17 moment, but as he told you from the very
18 beginning when you took turns sitting on that
19 witness stand and we got to talk to you, the
20 ultimate punishment or life without parole?
21 That is a harsh penalty. That's not walking
22 out of the courtroom. Life imprisonment is the
23 harshest penalty to impose other than the one
24 that the State is seeking. He will die in
25 prison. So what can I humbly stand here and

1 tell you that might focus your attention on why
2 life without parole is the proper penalty.

3 Where I want to start briefly is a few
4 comments about the law. The first thing that I
5 want to clarify -- and, again, my sons accusing
6 me all the time of repeating things so if I do,
7 I apologize. This is your first time in such a
8 case, so it's very important for me, for Mr.
9 Dickerson, and for Judge Dennis that you
10 understand the law.

11 As Judge Dennis has told you in the
12 beginning, will tell you today, the law does
13 not require the death penalty. Sometimes
14 jurors get confused about that. They think,
15 'Well, we found an aggravating circumstance and
16 that means that we have to find the death
17 penalty.' That is not true. Judge Dennis is
18 going to read to you some very important
19 instructions about the law.

20 This comes down to your own
21 individualized, reasoned moral choice after
22 you've heard all the evidence, after you
23 deliberate with your fellow jurors, what
24 penalty do you feel is right in your mind and
25 in your heart? The law doesn't ever required

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1 death. So when you are pondering and
2 deliberating on that decision, we ask that you
3 consider life without parole. If that verdict
4 form comes around with a death sentence, you
5 can put that thing down. You can say, 'You
6 know what? The Judge told me that I can give
7 life without parole for any reason, for no
8 reason or for a simple act of mercy.' You can
9 put your pen down and tell your fellow jurors,
10 'We have deliberated, we've discussed and I
11 feel that this is my own individualized,
12 reasoned moral choice. I ask you to respect my
13 vote just as I would respect yours.'

14 The Judge will also tell you that
15 under the law that you must consider three
16 mitigating circumstances. He will define
17 mitigating circumstances. Again, that evidence
18 that you've heard, in your mind and heart, you
19 feel that for you that a life without parole
20 sentence is appropriate.

21 Just as Mr. Durant talked about our
22 legislature creating certain processes, there
23 are three mitigating circumstances that the
24 Judge will instruct that you must consider,
25 that you must give meaningful consideration to.

1 That is, if he was substantially impaired --
2 and there is a longer phrase and the judge will
3 give you that, -- that he was under a mental or
4 emotional disturbance or mentality.
5 You can look at your fellow jurors and say, 'I
6 can consider that, I find that persuasive for
7 me.' So I ask you, when you've heard the
8 evidence, and I'll go through it with you in a
9 moment, to decide that life without parole is
10 the right choice for your own individualized,
11 reasoned moral judgment, that you will expect
12 the other jurors to respect your choice just as
13 you will respect their choice.

14 Now, how did we get here? Well, we
15 got here in a lot of ways. You've heard
16 testimony over the ast few days about William
17 Dickerson's life and each and every one of you
18 promised us when you sat on the witness stand
19 and we asked you questions that you consider
20 all of those factors, whether it was drug
21 addiction, a person's background, how they were
22 raised, their history, you would consider all
23 of that. So we brought you his life.

24 I didn't go out and make it up. I
25 didn't sit down with a typewritten or computer

1 and write a novel for you, or a story. We went
2 out and found that information and brought it
3 to you because we knew you'd have to make
4 probably the most difficult decision in your
5 life. So we brought you his life.

6 And it just wasn't one thing, it just
7 wasn't that 'oh, he used drugs' or that he got
8 in trouble one time, that he did 'this' or that
9 he did 'that.' He had a life, I would hope,
10 that no one would want a dog to have. He had a
11 life that made his choice, not like the choice
12 that any of us in this courtroom have had.

13 I want to tell you a little story
14 about choice. Sometime a story will help us
15 understand what we're talking about. I want to
16 tell you a story about a sergeant in Iraq who
17 was a helicopter mechanic. An Apache
18 helicopter landed, there are two pilots in it.
19 They ran up the tarmac, hooked the fuel lines
20 into and the other lines for oil and everything
21 so that the helicopter didn't have to turn
22 everything off, that they could go right back
23 out. In the middle of that, this sergeant and
24 the other soldier come under gunfire and mortar
25 rounds, it's all around them. The other

1 soldier gets scared and runs away. Well, the
2 pilots are still hooked up to the gas line.
3 They can't go anywhere. That sergeant stayed
4 there, under enemy fire, and made sure that
5 those lines were unsecured so that those two
6 pilots could take off, saving their life. He
7 made that choice to risk his own life to save
8 others and he did that because he came -- maybe
9 not from the best home but had two parents who
10 love him, cared for him, two grandparents, one
11 who is a World War II veteran and one who is a
12 Korean War veteran. That built a foundation
13 for him so that when he came to a point in his
14 life -- he hadn't been an abused child, he
15 hadn't been a victim of drugs. That sergeant
16 is my son. I wear his pin in honor of him and
17 I tell that story to people not to give me
18 credit but to show that when someone is given a
19 foundation, the difference that they can make
20 in other people's lives, how the choices that
21 we make can ripple out in a positive way.

22 He had his choices made for him. The
23 solicitor comes up here and says that 'he was
24 abused', we've all heard those phrases, but
25 didn't you come here in your civic duty,

1 getting selected, and tell the Solicitor and me
2 and Judge Dennis that you wanted to hear
3 everything? That it would be important to you
4 how someone was raised.

5 Before he was born, his father -- who
6 was a convict -- was beating his mother. That
7 is just one thing. If it had stopped there, I
8 would sit down and wouldn't argue with you.
9 Then when he is born premature, his father is
10 still beating his mother. That violence in the
11 home. The father ultimately commits murder and
12 goes to prison for life, died in prison. He
13 didn't make those choices but that shaped him
14 just as everyone in this courtroom has been
15 shaped by their background. But it didn't stop
16 there for him.

17 From the time that he is old enough to
18 hear, his mother is telling him 'You're just
19 like your father, you're no good. No good.'
20 From the time that he can hear and walk, before
21 he was disruptive or misbehaved. Does a five-
22 year-old need to hear that? That shaped his
23 choices. But it doesn't stop there.

24 The reason we introduced some of this
25 photographs of William Dickerson, of him and

1 his brother, of him around age five or six, of
2 him around age six or seven, and there's others
3 that you'll see, wasn't for sympathy. I don't
4 have photographs of what his mother did. But
5 can you imagine a five-year-old being told that
6 just because he resembles his father, just
7 because he was given his father's name, Junior,
8 being told when you're in kindergarten 'You're
9 no good, you're going to grow up just like him.
10 Stop doing that. Armon's crying. Cut it out.
11 Let me throw my keys at you and leave a scar
12 under your eye. How about if I take a belt to
13 your chest hard enough to leave a mark that the
14 doctors find when he is eleven?'

15 Choices? Those were the choices that
16 he was given. Then when he was eleven,
17 admitted for suicide threats. He's on a window
18 sill and wants to jump because he can't stand
19 being at home any more. Is that any wonder?
20 He's admitted for major depression. And the
21 solicitor wanted to get into a debate with the
22 doctor about that but he said that it was
23 significant for an eleven-year-old, highly
24 unusual.

25 They admit him to the State

1 psychiatric hospital, William S. Hall, for a
2 month. What happened? He settles down because
3 he is not home. The doctors recommend 'don't
4 send this kid home, something is going on there
5 that is wrong.' He's not acting out in school,
6 he is not acting out in the community, this is
7 when he was eleven. The only thing he'd do is
8 run away, one or two houses to his
9 grandmother's house, trying to go where it was
10 safe. He felt safe at Grandmama Watson's
11 house.

12 What happens? They send the kid home
13 and four days later he is back in the State
14 hospital. Is this normal for an eleven-year-
15 old?

16 After that, they then decided, 'Okay,
17 let's get this kid out of the home.' They sent
18 him to Tara Hall. For two years, not one
19 problem out of him at Tara Hall. Why? Because
20 he is not home. He's not home.

21 Then what happens? Two weeks before
22 he is supposed to graduate from Tara Hall and
23 go back home, one disruption in class. He gets
24 a little verbally disruptive. You heard the
25 teacher talk about that. Why? Because he

1 knows that he is going to get sent back home
2 and he doesn't want to go. He's been trying to
3 tell everybody, 'don't send me home.' The
4 doctor says 'don't send him home.'

5 Is it any wonder that a child who grew
6 up like that, lived like that, that he succumbs
7 to what goes on in the neighborhood? He gets
8 involved with drugs, runs drugs, sells drugs.
9 Are you surprised by that? You know, when I
10 first started this, in my opening, I said that
11 there are no surprise in this -- and William
12 Dickerson is not the worst of the worse. I
13 disagree with the Solicitor on that.

14 So he starts to get in trouble during
15 his teen years. But there are two of his prior
16 offenses that I want to correct before I got to
17 that. Their own witness told you that the
18 robbery in Hester Park was a robbery to rob
19 other drug dealers. Their own witness told you
20 that. Then one other thing that I will say
21 about pointing the firearm, that was horrible,
22 he got sentenced to ten years for that. That
23 is not disputed. The one fact that I dispute
24 is that he clicked the gun. I just find it to
25 be -- the evidence suggests that is incredible.

1 Thirteen years ago when that happened the
2 officers didn't put any of that in their
3 report. Don't you think that if that had
4 really happened, thirteen years ago, that they
5 have put that significant fact and statements
6 in their report? I suggest that memory was
7 recalled for your benefit thirteen years later.
8 I wasn't there.

9 Now, the other thing that I want to
10 ask you to do, and this is why he is not the
11 worst of the worse, is that Dr. Phillips told
12 you some of the bad things that he has done in
13 his life and we acknowledge that. But he's
14 also done things where he has helped others,
15 cared for others. He has empathy. In fact, on
16 that exact point some of the testimony we were
17 eager for you to hear was from the detention
18 officers who have been supervising him for the
19 last three years. What did they say? 'He
20 obeys our instructions, he is calm, he is
21 quiet.' He's one of the best inmates. He's
22 not the worst of the worse. He is not a danger
23 to anyone. In fact, he's a calming influence
24 on other inmates, he calms them down. Any
25 reason, no reason or as a simple act of mercy.

1 How about this for a reason? You can
2 stand up to your fellow jurors and say, 'I am
3 going to vote for life without parole because
4 based on his fifteen years in prison, and the
5 testimony from the officers, he is a calming
6 influence on other inmates.' Do you think that
7 there might come a day where he calms down a
8 hostile inmate and prevents a more explosive
9 situation? He's been doing it for the last
10 three years, you heard that.

11 Jim Aiken told the solicitor and they
12 seemed to agree that he is one of the better
13 inmates. In his fifteen-year history, all
14 those years in the Department of Corrections
15 and there were no assaults on an officer, no
16 assault on staff, no use of weapons, never had
17 to gas him, they never had to put him in four-
18 point restraints. He is a calm inmate.

19 They do bring you one assault from
20 last November in the county jail, and I want to
21 talk about that for just a minute because
22 that's not consistent with his fifteen-year
23 history, not from the time that he was in the
24 Department of Juvenile Justice to the
25 Department of Corrections, three years with

1 Charleston County. So I just want to make a
2 few comments about that. Could it have
3 happened a bit differently? There's no video
4 camera, it just happened to be down when the
5 incident happened. Isn't that convenient?

6 Second, what sense does it make that cell
7 mate, John Williams, while walking out of the
8 cell suddenly turns around with a balled fist
9 and strikes an officer?

10 Even if that happened, Barry Britt,
11 who was an inmate in that unit, could see into
12 the general area. At first he couldn't see who
13 was down and handcuffed on the floor, but he
14 saw Officer Huggins kicking a person. Does
15 that sound like proper conduct? An inmate is
16 down, handcuffed, shackled? Do you think that
17 happens? Yeah, sometimes.

18 Where Barry Britt is credible is that
19 he has to go back to that same unit, around
20 those officers who are watching him. I submit
21 to you that he was telling the truth. I submit
22 that you can look at that history and told that
23 he is a future damage.

24 Jim Aiken, who has been a warden in
25 prison, who has had to use lethal force on an

1 inmate, tells you that he's been a good inmate,
2 no assault on the staff, no weapons, nothing,
3 no extreme violence, a calming influence.
4 Those are all factors for your consideration --
5 any reason, no reason, as a simple act of
6 mercy.

7 Next let me talk a little bit about
8 cocaine addiction. I'm not going to try to
9 repeat it, you've heard all the evidence, all
10 the professionals/doctors told you that cocaine
11 is addictive. Lab animals give up food and
12 water to have it. People aren't any different.

13

14 Yes, the first time is voluntary. The
15 first time for him was when he came back to his
16 mother's at age fourteen. By age twenty-nine
17 he was hard-wired to it.

18 Another -- and I mean no disrespect to
19 Gerard Roper, but the solicitor brought out
20 evidence that Gerard was involved in the same
21 drugs that William used, so was Armon. This is
22 not some kidnaping from The Citadel Mall or the
23 Northwoods Mall. When you consider that, you
24 can consider all of it.

25 The other thing about that is that

1 every mental health expert told you that a
2 cocaine psychosis is a mental illness. At the
3 time of the incident that he was substantially
4 impaired. Does that excuse it? No. None of
5 the doctors that testified said it was an
6 excuse but that it explains why something like
7 this could happen, it tells us why. Cocaine is
8 a terrible thing, it's a terrible scourge. All
9 of the people involved in this incident, they
10 were all users. When you put that on top of
11 his history, that is the psychosis, that's the
12 delusional, that's the craziness in his head.
13 So we ask that you consider that as well,
14 because that explains how something so crazy
15 like this can happen.

16 The other thing that I want you to
17 consider is -- and I'm glad that the Solicitor
18 mentioned Apartment E-3 and E-4, because I want
19 to make a few comments about that. You can
20 consider some of the weight of the evidence
21 from the last case. We respect your verdict.
22 We aren't questioning that. The Judge charged
23 you on the hand of one is the hand of all --
24 remember there were four people charged in it:
25 Armon, Rashid and Selena are the others. You

1 have to weigh their credibility and
2 circumstances, because none of them are facing
3 the death penalty. He's the only one.

4 Now, I was thinking back last night on
5 the incident itself and there's two facts that
6 I just still don't get. If he did all of this
7 by himself there are two facts that make no
8 sense to me, and they both have to do with
9 Selena and Armon:

10 One, Selena's black Nike shoes.
11 Remember the DNA, that Gerard's blood was found
12 on Selena's black Nikes?

13 You can also remember that their own
14 witness asked, 'Could you get that on the side
15 of her shoe from just stepping on the floor?'
16 'No.' Selena told you that she came home and
17 put those shoes -- that she put those shoes in
18 the bathroom and never wore them again.
19 That's just not true. She had to have worn
20 them around Gerard when he was alive and got
21 blood on the side of her shoe from him.

22 The second thing about Selena and
23 Armon that makes no sense to me and you're
24 entitled to weigh in terms of codefendants.

25 Selena told you, make a big deal, sat

1 up here and raised her hand and said 'It's been
2 real hard for me to tell you this, but when I
3 came in...' -- supposedly, she said, William
4 said, 'What do we do?' Selena says, "He knows
5 who you are and he knows where we live."

6 Think about that. Of all the
7 testimony that comes out, it shows that William
8 and Selena were barely acquainted. William
9 knew her just that she was 'Armon's
10 girlfriend.' They didn't really have any
11 contact. I suggest a logical explanation is
12 that Armon asked his wife that question, 'What
13 do we do?' "He knows who you are and he knows
14 where we live."

15 That should cause you to have a
16 reasonable doubt as to the extend of his
17 conduct in that apartment. Again, we accept
18 your verdict, we don't quarrel with it, you
19 will be instructed that you can consider a
20 codefendant's involvement in fashioning the
21 right sentence for him. I submit to you what
22 those two questions raise are that he didn't do
23 everything by himself. He may not have stuck
24 the final blow because Armon and Selena were
25 admittedly there. What is we got it wrong?

1 That's a doubt -- you can stand with your
2 fellow jurors and say, 'I am not confident in
3 my heart and my mind as to exactly what William
4 Dickerson did. IF we give him the death
5 penalty based on what Selena said -- ' if in
6 weighing that, assessing her credibility, ask
7 yourself how much weight you can give to that.
8 If you don't trust her with that, you can't
9 trust yourself with the ultimate punishment for
10 him.

11 That, if nothing else in this case persuades
12 you, I would hope that would stand with your
13 fellow jurors and say, 'You know what? I can't
14 -- I have doubt in my heart about that.'

15 The last thing that I want to suggest
16 to you is the last bit of evidence that we
17 talked about. Dr. Rivers came here, a retired
18 child psychologist. She saw William when he
19 was thirteen years old at Tara Hall. Dr.
20 Rivers told you that she had strong suspicions
21 that he had been sexually molested. The
22 solicitor grilled her really hard on that, 'did
23 you report it to DSS', 'Well, I think I did,
24 I'm pretty sure I did.'

25 We now learn that the DSS records have

1 been purged. We know that they were there, but
2 they're gone. So I can't bring those to you. I
3 sure would like to.

4 But how did she come to that
5 conclusion, because they went and back about
6 that. The solicitor asked her, 'Because he
7 threw a brick you think he was sexually
8 molested?' She said 'No, sir. No, sir. Wait
9 a minute. Let me show you what the signs were.
10 I am a school psychologist, I deal with kids
11 all the time, I've got to look for these signs
12 because children don't want to tell, they don't
13 want to talk about it. Families don't want to
14 talk it, it's a family secret.' So
15 what are the signs that he is trained to look
16 at? Well, one he'd been hospitalized at age
17 eleven for psychiatric problems. There was
18 something going on in Sandra's house. It's not
19 normal for an eleven-year-old to need a
20 psychiatric admission where he threatens to
21 kill himself.

22 Number two, it is focused on Sandra's
23 house, on Sandra. He doesn't happen at his
24 grandmother's house, it doesn't happen in the
25 community, it doesn't happen at Tara Hall.

1 Something is going on in that house.

2 Number three, Sandra has got men
3 coming in and out of there -- and I don't judge
4 her. If you ever got the impression that we
5 are coming in here beating on mama, I
6 apologize. Take it out on me, not him. I
7 brought you his life story. I didn't make it
8 up, I didn't create it, I didn't ask for it but
9 I wanted you to have it because you're making
10 the most important decision that you have to
11 make. So she had men coming in and out of the
12 house. We know she was using marijuana. What
13 else?

14 What else, Dr. Rivers, what else did
15 you see? 'Well, I saw that when he got to Tara
16 Hall that he settled right down, he was happy.
17 There were no problems out of him.'

18 What else? 'I spent five or six
19 months, one a week or thereabouts, with him in
20 individual sessions and in group sessions and,
21 no, he never told me. But children don't want
22 to tell. It was my professional impression
23 that something was going on with that boy, and
24 that his anger was directed at his mother over
25 something traumatic not just a beating, not

1 just a whupping, not just calling him names,
2 you know, 'you're no good.' Something is going
3 on that is serious.' And she said, 'I
4 concluded as a professional child psychologist
5 one of two things. He has either been sexually
6 molested or he's witnessed a murder or shooting
7 in the community', a single act of violence in
8 this community. This was when he was fourteen,
9 at Tara Hall. The stabbing, the shooting,
10 things like that were after he left Tara Hall.
11 So what did we have before? Did he witness a
12 shooting before he came to Tara Hall? You've
13 got one possibility left. There may have been
14 other factors that she listed, I may not have
15 all of them.

16 At eleven years of age, he does
17 something to upset his mother. She says, 'I
18 bought those clothes for you. Get out of them.
19 I am putting you of the house naked.' They
20 live in an apartment where he's out in the
21 parking lot, he's trying hid around the cars
22 because he's an eleven-year-old prepubescent
23 boy. What kind of person does that to a child?
24 Someone who allows him to be sexually molested?
25 One plus one equal two. It isn't that hard to

1 figure out.

2 The beauty of Dr. Rivers' testimony is
3 that I didn't go out and find her and hire her.
4 I had to find some experts, which I hope I
5 found good, credible people that you could
6 listen to -- Marjorie Hammock, Dr. Phillips.
7 She was gone, eighteen years ago, yeah,
8 eighteen or nineteen years ago. She had no
9 idea that he'd be here in 2009. That was her
10 conclusion then.

11 To borrow part of the solicitor's
12 argument, you can take Dr. Rivers' testimony,
13 you can take that one incident that we know
14 about -- and I wish that I could bring you
15 more, I wish that we had photographs and
16 videotapes of what Sandra did to him or allowed
17 to be done to him in that household.

18 When you look at the facts of the
19 offense, what did Marjorie Hammock say?
20 Sometimes when you are abused, you abuse back.
21 Isn't it as simple as one plus one equals two?

22 That doesn't excuse what was done to
23 Gerard Roper. But as Dr. Phillips said, we are
24 not here to excuse. We're trying to explain
25 how something like this could happen.

1 All of this, and there may be witnesses that
2 I've forgotten to mention, there may be
3 witnesses that I've left certain parts that you
4 think are more important. I've tried to come
5 to with testimony that is important for you to
6 consider in making your decision. You will
7 obviously remember the testimony of what was
8 important to you.

9 I submit that when the Judge has
10 charged you, then you can give life without
11 parole for the statutory mitigating
12 circumstances, for any reason, for no reason
13 -- you can look at your fellow jurors, 'You
14 know what? We've debated for a long time but I
15 just feel in my hear that life without parole
16 is the right sentence. I can't put it into
17 words, I can't articulate it, I can't explain
18 it, I can't give a reason to it', then that is
19 a individualized, reasoned moral judgment for
20 you.

21 Lastly I would ask you to consider
22 life without parole as a simple act of mercy.
23 Our law allows that. Judge Dennis will charge
24 you. That's something that his eighty-three
25 year old grandmother asked you. Does that make

1 everything else go away? No. Does that
2 diminish Gerard Roper's life? No.

3 One last thought that I want to leave
4 you with. My heart goes out to Mr. and Mrs.
5 Roper. I know their pain. I don't pretend to
6 understand it because I've never experienced
7 that nor have I walked in their shoes, but I
8 respect and I know it is painful and I know
9 that is real. They have a wonderful family, a
10 wonderful family from what they've told us. If
11 William Dickerson had grown up in a family
12 likes the Ropers, we would never be here today.
13 You know that in your heart and you know that
14 in your mind. We didn't get here by accident.
15 It should be no surprise that we are here, but
16 he is not the worst of the worse.

17 I could be standing here representing
18 any one of them for the murder of William
19 Dickerson, and you'd have the same choice to
20 make about them.

21 I hope, given the awesome
22 responsibility that you have, and I know that
23 you will discuss these things seriously and
24 contemplate them. Indeed, the Judge is going
25 to tell you that you that you have to give it

1 meaningful consideration. I ask you again --
2 for any reason, for no reason or as a simple
3 act of mercy, based on the Judge's charge, that
4 you find life without parole is the right moral
5 individualized choice for you after you all
6 have discussed this. That you'd ask the other
7 jurors to respect your vote and put down that
8 pen when that death verdict comes around and
9 you have to sign it. You have that right under
10 the law to stand your ground. Every one of you
11 told us that in deliberation you wouldn't just
12 give up your vote to go home.

13 I ask you to find life without parole
14 for any reason, for no reason, or as simple act
15 of mercy. Your choice. Hold on fast to life
16 and ask the other jurors to respect that.
17 Thank you for your attention.

18 THE COURT: Thank you, Ladies and
19 Gentlemen. At this point we have concluded the
20 closing arguments. The next phase of course
21 will be when I give you the instruction on the
22 law. There are some things that I have to do
23 to get ready for that. Also, it's time -- we
24 can take a break at this point. Please do not
25 begin your deliberations, don't discuss the

1 case among yourselves. Also, if the smokers
2 want to go outside you might take advantage of
3 this break. You may do so at this time. We
4 will also take your lunch orders, as well.
5 Thank you very much.

6 (JURY OUT @ 11:12 A.M.)

7 THE COURT: Anything from the State
8 before recessing?

9 SOLICITOR WILSON: Nothing.

10 THE COURT: From the Defendant?

11 MR. BLOOM: No, sir.

12 (BRIEF RECESS)

13 (DEFENDANT PRESENT)

14 THE COURT: Ready?

15 SOLICITOR WILSON: Yes, sir.

16 THE COURT: Defendant ready?

17 MR. BLOOM: Yes, sir.

18 THE COURT: Bring the jury in.

19 (JURY IN @ 11:40 A.M.)

20 THE COURT: Thank you, Ladies and
21 Gentlemen. Thank you for your patience. We've
22 ordered lunch and hopefully it will be here
23 when we've completed this portion of the trial.
24 You have each found a packet of information in
25 your chair, instructions in the form that we're

1 going to discuss now. Each one of you will
2 have a packet for the purpose. When we
3 complete the instruction, I would simply ask
4 that you leave them in your chair and we'll
5 send one back to you for you to use.

6 In that regard, when we send every-
7 thing back -- as you will recall, one of the
8 first things that we did when we started was
9 the Motion to incorporate everything that took
10 place in the first phase, that is all the
11 evidence and the instruction.

12 Some of the instruction that you will
13 see, we are going to talk about two of the
14 crimes that I charge you in the first phase.
15 They are part of this proceeding. I didn't
16 elaborate on the charges as much as I did in
17 the first phase, but if you need that
18 instruction -- if you need further instruction
19 on that, we can send you back -- because the
20 instruction on the law in the first phase
21 applies here. In fact, you are hear some
22 repetition. You're heard it before but it
23 bears repeating and it's important to repeat.

24 Please remember that when I use the
25 word and you see the word "defendant" in the

1 context that it is referencing Mr. Dickerson.
2 That is simply a way of identifying him. It's
3 not to infer anything other than to say he is a
4 party to this dispute and that's the title
5 assigned to him.

6 Please, now let have your attention.
7 As you will recall, one of the things that we
8 talked about is that you have the sole
9 responsibility of being the judge of the facts.
10 I have nothing to do with that. Nothing that I
11 am saying now, nothing contained in the charges
12 or the forms given to you should be considered
13 by you as a suggestion or indication of how you
14 are to resolve a factual issue. That's your
15 responsibility and yours alone.

16 Likewise, just as I have nothing to do
17 with the facts, you have nothing to do with the
18 law. You've promised that will accept the law
19 notwithstanding your personal feelings, strong
20 opinions, whatever they may be. You promised
21 each of us that you would set those aside and
22 apply the law fairly and impartially and I'm
23 confident that each one of you will do that
24 when you begin the process of resolving this.

25 Mr. Presiding Juror, at this point we

1 will start with that portion that is paper-
2 clipped together. You may want to keep the
3 others separate. There's a form that I will
4 discuss with you during the instruction.

5 Mr. Presiding Juror and members of the
6 jury, you've heard the testimony and evidence
7 and arguments of the State and the Defendant.
8 I will now explain to you the law that applies
9 to this case.

10 Under the Constitution and laws of
11 South Carolina, you're the finders of facts in
12 this case. I do not have the right to pass
13 upon the facts or even to express any opinion
14 that I might have as to them.

15 In this proceeding, as in the first
16 phase, Ladies and Gentlemen, a defendant has
17 the Constitutional right to remain silent and
18 the assertion of such Constitutional right
19 cannot and must be considered by you in your
20 deliberations. Under your oath, then, you are
21 to reach no inference and draw no conclusion
22 whatsoever from the fact that the Defendant,
23 Mr. Dickerson, did not testify. The failure of
24 this defendant to testify should not even be
25 discussed in the jury room. The State is only

1 party having a burden of proof in this phase.
2 The failure of the Defendant to testify is not
3 a factor to be considered by you in determining
4 whether the State has met its burden of proof
5 beyond a reasonable doubt as to the existence
6 of aggravating circumstances.

7 As you may recall, a reasonable doubt
8 is a doubt that makes an honest, sincere,
9 conscientious juror in search of the truth in
10 the case to hesitate to act. Proof beyond a
11 reasonable doubt is proof that leaves you
12 firmly convinced of a particular fact or
13 circumstance. There are very few things in
14 this world that we know with absolutely
15 certainty and in criminal cases the law does
16 not require proof that overcomes every possible
17 doubt. If based on your consideration of the
18 evidence you're firmly convinced that a
19 particular fact or circumstance has been
20 established, then the State would have met its
21 burden of proof as to that particular fact or
22 circumstance. If on the other hand you think
23 that there's a real possibility that the fact
24 or circumstance has not been established, you
25 must give the Defendant the benefit of the

1 doubt and find that the State has failed to
2 meet its burden of proof as to that particular
3 fact or circumstance.

4 The evidence you are to consider
5 consists of the testimony of the witnesses and
6 the exhibits that have been offered and
7 received during the trial. My comments and
8 arguments of the attorneys, as I have stated
9 before, are not evidence.

10 As you will recall, Ladies and
11 Gentlemen, there are two types of evidence used
12 in presenting a case: direct evidence and
13 circumstantial evidence.

14 Direct evidence is the testimony of a
15 person who claims to have actual knowledge of a
16 fact, such as an eyewitness. It is evidence
17 which immediately establishes the main fact to
18 be proved.

19 Circumstantial evidence is proof of a
20 chain of facts and circumstances indicating the
21 existence of a fact. It is the evidence which
22 immediately establishes collateral facts from
23 which the main fact may be inferred.

24 Circumstantial evidence is based on inference
25 and not on personal knowledge or observation.

1 The law makes absolutely no
2 distinction between the weight or value to be
3 given to either direct or circumstantial
4 evidence, nor is a greater degree of certainty
5 required of circumstantial evidence than of
6 direct evidence. You should weigh all of the
7 evidence in this case.

8 The rules of evidence do not permit
9 witnesses to testify to opinions or
10 conclusions. An exception to this rule exists
11 for witnesses that we call expert witnesses. A
12 witness who by education or experience has
13 become an expert in some art, science,
14 profession or calling may state an opinion as
15 to relevant and material matter in which the
16 witness claim to be expert, and may also state
17 the reasons for the opinion.

18 You should consider any expert opinion
19 received in evidence in this case and, like any
20 other evidence, give it the weight that you
21 think that it deserves. If you decide that the
22 opinion of the expert is not based on
23 sufficient education and experience or if you
24 conclude that the reasons given in support of
25 the opinion are not sound or the opinion is

1 outweighed by other evidence, you may disregard
2 the opinion entirely. An expert witness'
3 testimony is to be given no greater weight than
4 that of any other witness simply because the
5 witness is an expert. Further, you are not
6 required to accept an expert's opinion even
7 though it is not contradicted.

8 It is your duty as jurors to analyze
9 and evaluate the evidence and to determine
10 which evidence convinces you of its truth. You
11 may consider any witness has exhibited to you
12 any interest, bias, prejudice or other motive
13 in this case. You may also consider the
14 appearance and manner of a witness while on the
15 witness stand. Was he or she straight-forward
16 or hesitant in answering questions? Was the
17 testimony of the witness consistent or
18 inconsistent? How did the witness come to know
19 the facts that he or she testified to? What
20 was his or her ability to know these facts?

21 A person who has a past criminal
22 record is competent to testify during a trial.
23 A past record dos not affect the ability of
24 that witness to testify. The past record may
25 only be considered by you, if at all, in

1 determining the witness' believability.

2 Remember, you are the sole judges of
3 the facts in the case and the believability of
4 any and all the witnesses. In determining the
5 question of credibility or believability of the
6 witness, you may believe one witness against
7 several witnesses or several witnesses against
8 one witness. You may believe a part of the
9 testimony of a witness and reject the remaining
10 part of the testimony of that same witness.
11 You may believe the testimony of a witness in
12 its entirety or reject the testimony of a
13 witness in its entirety. These considerations
14 you do not exercise arbitrarily but if in your
15 good judgment there is a sound reason in the
16 record of this case for so doing, you have that
17 prerogative. Your objective, Ladies and
18 Gentlemen, is to find the truth regardless of
19 the source of the evidence.

20 Mr. Presiding Juror and members of the
21 jury, shortly it will become your duty to
22 determine the sentence that this court will
23 impose upon the Defendant, William Dickerson.
24 There are two verdicts that you are to consider
25 in this case. One is life imprisonment without

1 the possibility of parole and the other is the
2 death penalty. The order in which I explain
3 these two options is in no way a recommendation
4 by this court as to which sentence you should
5 choose to recommend, it is simply that one must
6 be stated first.

7 Also, remember that I use the term
8 "recommend" though the defendant will actually
9 be sentenced by whatever is recommended by you.
10 This court will follow your sentencing
11 recommendation.

12 In order for you to decide which
13 sentence to recommend, you must first determine
14 whether a statutory aggravating circumstance
15 exists beyond a reasonable doubt.

16 What is a statutory aggravating
17 circumstance? It is a fact, an incident, a
18 detail or an occurrence which the legislature
19 has declared by statute would make worse, that
20 is to "aggravate", the offense of murder when
21 the two occur together. In other words, it is
22 something that increases the enormity of the
23 offense or makes the injury more grievous.

24 There is a form that you have entitled
25 "Statutory Instructions". If you would, grab

1 that form for a moment. You will see that I've
2 listed -- first there are two phases, first
3 aggravating circumstances and then mitigating
4 circumstances.

5 At this moment, I want us to focus on
6 the aggravating circumstances. You will note
7 that there are three listed:

8 The murder was committed while in
9 the commission of criminal sexual conduct.

10 The murder was committed while in
11 the commission of the crime of kidnaping.

12 The murder was committed while in
13 the commission of the crime of torture.

14 I charge you that torture occurs when
15 a victim is subject to serious physical abuse
16 before death. Torture occurs when a victim is
17 subject to aggravated battery.

18 What is aggravated battery? An
19 aggravated battery is an unlawful act of
20 violent injury to the person of another
21 accompanied by circumstances of aggravation
22 such as the use of a dangerous or deadly
23 object, the infliction of serious bodily injury
24 with intent to commit a felony, a great
25 disparity between the ages and physical

1 condition of he parties, a difference in the
2 sexes.

3 Physical torture is the intentional
4 infliction of serious, vile, horrible or
5 inhuman abuse upon the body of another before
6 death. The instantaneous death of the victim
7 does not constitute torture. Physical torture
8 may include the malicious infliction of bodily
9 harm to another by depriving him, or her, or a
10 member of his/her body or by rendering a member
11 of the body useless, or by seriously
12 disfiguring the body or a member of the body,
13 or the intentional and unmerciful prolonging or
14 severe pain and abuse upon the body, or the
15 intentional and unmerciful infliction of
16 serious and extensive physical pain and abuse
17 of the body of another.

18 Now let's look at the crime of
19 criminal sexual conduct. I charge you the
20 first element that the State must prove beyond
21 a reasonable doubt is, as you may recall, that
22 the Defendant engaged in a sexual battery with
23 the victim. A sexual battery is any intrusion,
24 however slight, of any part of a person's body
25 or of any object into the anal openings of

1 another person's body, except when the
2 intrusion is accomplished for medically-
3 recognized treatment or diagnostic purposes.

4 In addition, the State must prove
5 beyond a reasonable doubt at least one of the
6 following:

7 One, the Defendant used
8 aggravated force to accomplish the sexual
9 battery. Aggravated force means the use of
10 physical force or physical violence of a high
11 and aggravated nature to overcome the victim.
12 This includes the threat of using a deadly
13 weapon.

14 Two, that the victim submitted to
15 sexual battery while the victim was also the
16 victim of forcible confinement, kidnaping or
17 any other similar act or offense.

18 Now let's look at the charge of
19 kidnaping. I charge you that the State must
20 prove beyond a reasonable doubt for this
21 offense that the Defendant knowingly and
22 unlawfully seized, confined, kidnaped, abducted
23 or carried away another person without
24 authority of law. The offense of kidnaping
25 commence when one is wrongfully and unlawfully

1 deprived of his freedom and continues until his
2 freedom is restored.

3 Now, let me emphasize to you that
4 these three circumstances are the only
5 circumstances that you may consider as an
6 aggravating circumstance. If you find that the
7 State has proved beyond a reasonable doubt the
8 existence of at least one of these
9 circumstances listed on the statutory
10 instruction form, one of those three, then you
11 may consider recommending to this Court that
12 the Defendant be sentenced to death. For you
13 to reach this conclusion it must a unanimous
14 decision.

15 Please pay particular attention -- you
16 are never required to recommend the death
17 penalty. Even if you find that a statutory
18 aggravating circumstance existed at the time
19 that the offense occurred, you could still
20 recommend a life sentence.

21 I instruct you further should you find
22 that the State has not proven that such a
23 circumstance existed, that is an aggravating
24 circumstance, then you would not be authorized
25 to recommend the death penalty and your only

1 recommendation must be life imprisonment
2 without the possibility of parole.

3 However, should you find beyond a
4 reasonable doubt that the aggravating
5 circumstance existed at the time of the murder,
6 you would write such circumstance on the form
7 that is entitled Jury's Verdict on Proof
8 Aggravating Circumstances.

9 If you will look at that form with me
10 for just a moment -- it's in your packet and it
11 looks like this (displaying). There are two
12 options.

13 The first says, "We, the jury, in
14 the above-entitled action find no statutory
15 aggravating circumstance." What would you be
16 saying? You would be saying that you reviewed
17 the evidence but the State has not convinced
18 you beyond a reasonable doubt of at least one
19 aggravating circumstance. That would be your
20 verdict and only you, Mr. Presiding Juror,
21 would sign that verdict if that is your
22 decision, twelve to zero of course.

23 The second one, and the order
24 means nothing, "We, the jury in the above-
25 entitled action, find beyond a reasonable doubt

1 the following aggravating circumstance(s) --" -
2 - and you would list, having considered those
3 three, if you find one or more, whatever you
4 find beyond a reasonable doubt, I would ask,
5 Mr. Presiding Juror, that you write them on the
6 lines provided. That form, if you find
7 aggravating circumstance(s), requires each
8 juror to place their signature. You would sign
9 as the presiding juror and then in any order
10 would be fine after that.

11 Again, that's the consideration for
12 aggravating circumstances and that form must be
13 completed together with any other forms that
14 you are instructed to consider.

15 All right, let's go back to the
16 charge. As I previously instructed, if you
17 find the existence beyond a reasonable doubt of
18 a statutory aggravating circumstances, then you
19 are permitted but not required to recommend the
20 death penalty.

21 There are other matters to be
22 considered in reaching your decision. First,
23 is there any evidence as to the existence of
24 any statutory mitigating circumstance or any
25 other mitigating circumstances and, secondly,

1 whether, for any reason or for no reason at
2 all, the Defendant should be sentenced to life
3 imprisonment.

4 What is a statutory mitigating
5 circumstance? It is a fact, an incident, a
6 detail or occurrence which the General Assembly
7 has declared by statute would reduce the
8 severity of the offense of murder. In other
9 words, it is a circumstance recognized by
10 statute as one which, in fairness and mercy,
11 may be considered as extenuating or as reducing
12 the degree of moral culpability for the
13 commission of the act of murder.

14 Ladies and Gentlemen, a mitigating
15 circumstance neither justification nor an
16 excuse for murder. It simply lessens the
17 degree of the defendant's action; that is, it
18 tends to lessen the severity of the punishment.

19 What statutory mitigating
20 circumstances should you consider in this case?
21 The three which you are to consider are -- and
22 let's go back to the form, Statutory
23 Instructions, and you'll find them listed. The
24 three are:

25 The murder was committed while

1 the Defendant was under the influence of mental
2 or emotional disturbance.

3 Two, that the capacity of the
4 Defendant to appreciate the criminality of his
5 conduct or to conform his conduct to the
6 requirements of law was substantially impaired.

7
8 Three, the age or mentality of
9 the Defendant at the time of the crime.

10 Also, I will instruct you further that
11 you may also consider any nonstatutory
12 mitigating circumstances and we'll talk about
13 that in just a moment. Those are the three
14 statutory.

15 The phrase "any other mitigating
16 circumstance" refers to those mitigating
17 factors which are not specifically provided for
18 by statute, but which the defendant claims
19 reduces the degree of punishment that he should
20 received. You need not find the existence of a
21 mitigating circumstance beyond a reasonable
22 doubt and the defendant has no burden of proof
23 as to mitigating circumstances.

24 In reaching your decision as to which
25 sentence to recommend, you will consider the

1 aggravating circumstances and mitigating
2 circumstances. While an aggravating
3 circumstance must be found beyond a reasonable
4 doubt before you can even consider recommending
5 the death penalty, once such a finding is made
6 beyond a reasonable doubt you may recommend the
7 death sentence even though you find the
8 existence of a mitigating circumstance. In
9 other words, the existence of a mitigating
10 circumstance does not keep you from imposing
11 the death penalty.

12 If you conclude that a statutory
13 aggravating circumstance exists, you must then
14 consider whether the Defendant should be
15 sentenced to life imprisonment for any reason,
16 for no reason or as a recommendation of mercy.
17 Should such be your decision, you would
18 indicate by returning the Court the
19 recommendation of a sentence of life
20 imprisonment without the possibility of parole.
21 That form will be sent back to you, Mr.
22 Presiding Juror, and you'll see "Recommendation
23 of Sentence of Life Imprisonment." If that be
24 your decision, Mr. Presiding Juror, Ladies and
25 Gentlemen, you will simply -- it must be a

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1 unanimous decision and, Mr. Presiding Juror,
2 you will sign the form, date it and you will
3 have completed that particular form.

4 In other words, you may choose to
5 recommend life imprisonment if you find a
6 mitigating circumstance or you may choose to
7 recommend life imprisonment as an act of mercy.
8 In any instance, whatever your decision, as I
9 stated, it must be unanimous.

10 Likewise you will have a form that
11 says "Recommendation of the Death Sentence".
12 In that case, that's the form where you would
13 write out the aggravating circumstance(s) and
14 everybody will sign. That's the form that
15 would set forth what you've found beyond a
16 reasonable doubt and that's the form that would
17 recommend the death sentence. Mr. Presiding
18 Juror, you would sign as foreman and then all
19 jurors have to sign again as you did on the
20 aggravating circumstance form where you've
21 written them out; whichever one(s) you found
22 beyond a reasonable doubt, you must write them
23 out on the lines provided.

24 In considering whether to recommend
25 that the Defendant is to be sentenced to death

1 or life imprisonment, I charge you that as
2 jurors you must decide the issue involved in
3 this proceeding without bias and without
4 prejudice to any party. You cannot allow
5 yourselves to be governed by prejudice, by
6 passion, sympathy or by public opinion. Both
7 the State and the Defendant have the right to
8 expect that each of you will carefully and
9 impartially consider all the evidence in the
10 case and that you will follow the law as I have
11 explained it to you.

12 At this time, Ladies and Gentlemen,
13 I will ask the alternates to stand aside --
14 before asking that, let me inquire of the first
15 twelve of you that were selected, does any
16 juror believe that they cannot now go forward
17 and complete this proceed? That is to sit and
18 evaluate the evidence, apply the law fairly and
19 impartially to that evidence and report your
20 decision? If you feel that you cannot now, for
21 any reason whatever, please raise your hand?
22 (No response). Thank you very much.

23 Ms. Ancrum, Ms. Dobson, thank you for
24 your attention. You're not finished yet,
25 because you know that you remained during the

1 first phase. I will be in and express to you
2 how long you need to remain shortly, but right
3 now you are still very much a part of the jury.
4 When the jury retires, you are not permitted to
5 rejoin them in the jury room. They will take
6 you to another room.

7 As you know, I have to talk about my
8 instructions with the attorneys. It might be
9 necessary to return you to the courtroom to
10 give you some additional instructions. If that
11 be the case, we will return all of you,
12 including the alternates, to the courtroom. If
13 there aren't any additions, then we will
14 deliver to you the exhibits, and you'll have
15 with you a copy of the charge and each form --
16 the charge will be a court's exhibit and you
17 may refer to it if need be. Also, if you need
18 anything from the previous charge, if you'll
19 just let us know, we can send that back to you
20 as well. I think we've pretty much revisited
21 most of those issues but should you need some
22 clarification, it is available for you.

23 Remember this restriction, do not
24 begin your deliberations, don't change that
25 open mind until you've received the exhibits

1 and the instructions, then you may begin your
2 deliberations. Once you've completed the form,
3 whichever one applies, if you will knock on the
4 door we will be happy to return you to the
5 courtroom to receive your verdict.

6 I thank you for the sacrifice that
7 you've made, for your willingness to continue
8 this process, for the manner in which you've
9 approached this extreme responsibility. It's
10 been a true honor to serve with you and we look
11 forward to receiving your decision. Let us
12 know if there is anything that you need.
13 Remember if you have a dispute as to testimony
14 that we have the ability of replaying that
15 testimony for you and we will bring you into
16 the courtroom to do that. If you need further
17 instruction on the law just let me know and
18 I'll be happy to give you further instruction.
19 Thank you for attention. Please return to the
20 jury room and, Alternates, please go to your
21 room now. I would ask that each jury leave the
22 packet in your seat.

23 (JURY OUT @ 12:10 P.M.)

24 THE COURT: Any exceptions or
25 additions from the State?

1 SOLICITOR WILSON: No, sir.

2 THE COURT: Any exceptions or
3 additions from the Defendant?

4 MR. BLOOM: Judge, I know your
5 instruction referred to life without parole at
6 various points but -- and I apologize, I should
7 have called it to your attention earlier.

8 THE COURT: I said life imprisonment
9 sometimes.

10 MR. BLOOM: The sentencing charge
11 requires a specific sentence, 'I instruct you
12 may find life without parole'.

13 THE COURT: I disagree with you.
14 The sentence says when they ask a question you
15 have -- I told them it was life without parole
16 and the verdict form says "Life imprisonment
17 without the possibility of parole."

18 MR. BLOOM: You're correct. Thank
19 you, Your Honor.

20 THE COURT: Okay.

21 MR. BLOOM: Thank you. That's all.
22 I see the verdict form. Thank you.

23 THE COURT: I think you're covered.
24 I think I repeated it -- if I had to count, and
25 Mr. Durant can probably tell me, I believe I

1 told them overwhelmingly life without parole.

2 BRUCE DURANT: I don't think I
3 ever heard one without the other.

4 MR. BLOOM: I see the verdict form.

5 THE COURT: I understand, but I said
6 that in the instruction on numerous occasions
7 as well. There were times that I referred to
8 "life imprisonment" just as sentence, just to
9 shorten it. Thank you all. We will be at-
10 ease.

11 (EXHIBITS REVIEWED, APPROVED BY COUNSEL)

12 (JURY IN DELIBERATION @ 12:17 P.M.)

13 (NOTIFIED OF VERDICT @ 2:30 P.M.)

14 (DEFENDANT PRESENT)

15 THE COURT: Let the record reflect
16 that Mr. Dickerson is present. I am advised
17 that the jury has reached a verdict. The State
18 is ready to receive the verdict?

19 SOLICITOR WILSON: Yes, sir.

20 THE COURT: Defendant is ready to
21 receive the verdict?

22 MR. BLOOM: Yes, sir.

23 THE COURT: These cases, as we
24 talked in the first phase, are -- they build in
25 emotion, unlike any with which I have been

1 involved either as a lawyer or a judge. I
2 would love to never try another one and I would
3 have loved to have only tried one, but I have
4 tried more than one, but I know the feeling
5 that most people have right now -- I have it
6 myself. It's just an extremely emotional time.

7
8 I respect the feelings of everyone
9 here because there is going to be a loss
10 everywhere, both ways, no question about it.
11 There is nothing in the world that will
12 replace. It would be lovely if we all could
13 roll back the clock sometimes, but we can't; we
14 live with that, that's the way we are.

15 For the family who has been sitting
16 here and testifying, thank you for the dignity
17 that you've provided to this process, for the
18 decorum.

19 I spoke to Mr. Dickerson yesterday and
20 I speak to him again. I thank him and his
21 friends that he had come in and out of this
22 courtroom. Thank you again for showing the
23 respect that has been shown throughout, sir.

24 I will require that same attitude and
25 approach now when the jury's verdict is

1 published. There will be no outburst at all.
2 I heard a phone this morning. I am going to
3 let that go, but if you have phones you better
4 turn them off now. During this process, if it
5 goes off it will not be overlooked. If I need
6 to hear a "ding" as you turn it off, that's
7 fine but I want the phones off and nothing on.

8 If you remain, understand that you
9 will remain with that understanding. I
10 appreciate that.

11 We have Court's Exhibit 31, the jury
12 has written and would like to thank -- I've
13 already expressed this to the bailiffs and
14 security, but they wanted to thank the
15 bailiffs, security, detectives, Julia Armstrong
16 and her staff and me for the "outstanding
17 services that were provided during this
18 experience." I share that with you. It's part
19 of the record.

20 (SO ENTERED AS COURT'S EXHIBIT 31)

21 THE COURT: I will also share with
22 you that it is not uncommon, and we did it as
23 an accommodation although I have not given it
24 to them yet, the bailiffs have it, they've
25 exchanged addresses and wanted a copy of that.

1 I provided that for them as an accommodation to
2 them. That is not uncommon, at least not in
3 the prior experiences that I've had. A bonding
4 takes place, oddly enough, in this process. I
5 don't think it means anything nor does it
6 degrade anything, it's just that these people
7 have shared something that brings them pretty
8 closely together. I needed to share that with
9 you, as well, because I was aware of that. I
10 did not make that a court's exhibit. I assume
11 that the State doesn't require that the
12 exchange of names be a court's exhibit?

13 SOLICITOR WILSON: No, sir.

14 THE COURT: Mr. Bloom, does the
15 Defendant wish to have that?

16 MR. BLOOM: No, Your Honor.

17 THE COURT: Thank you very much.
18 Bring in our jury.

19 (JURY IN @ 2:45 P.M.)

20 THE COURT: Mr. Partee, I under-
21 stand that the jury has reached a verdict?

22 JUROR NUMBER 386: Yes, Your Honor.

23 THE COURT: Please hand the verdict
24 form to Mr. Southerland (bailiff).

25 JUROR NUMBER 386: (Tenders).

1 THE COURT: (Upon review), the
2 verdict forms have been properly completed.
3 I would ask the Defendant to please rise.

4 DEFENDANT: (Complies).

5 CLERK, SCOTT WILSON: In the matter
6 of the State of South Carolina versus William
7 Oliver Dickerson, "We, the jury, find beyond a
8 reasonable doubt the following aggravating
9 circumstances: Criminal sexual conduct,
10 kidnaping and torture." Signed by the
11 presiding juror and all of the jurors. Dated
12 May 7th, 2009.

13 "We, the jury, having found beyond a
14 reasonable doubt the existence of the following
15 statutory aggravating circumstances: criminal
16 sexual conduct, kidnaping, and torture duly
17 recommend to the Court that William Oliver
18 Dickerson be sentenced to death." Signed by
19 the foreperson and all of the jurors.

20 Ladies and Gentlemen of the jury, if
21 this is your verdict, please reply by raising
22 your right hands.

23 (UNANIMOUS AFFIRMATIVE RESPONSE BY JURORS)

24 CLERK, SCOTT WILSON: Your Honor, let
25 the record reflect that all twelve jurors have

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1 raised their right hand.

2 THE COURT: Thank you, Mr. Wilson.

3 Ladies and Gentlemen, thank you very much. As
4 we did in the first phase, Mr. Wilson is going
5 to now call your names. He is going to ask you
6 two questions. Basically it will be was that
7 your verdict and that will apply to both the
8 aggravating circumstances form as well as the
9 death sentence form. You will need to just
10 response to those questions, please, and we
11 will go through that process. Mr. Wilson.

12 CLERK, SCOTT WILSON: Juror Number
13 386, are these your verdict?

14 JUROR NUMBER 386: Yes, sir.

15 CLERK, SCOTT WILSON: Are they still
16 your verdicts?

17 JUROR NUMBER 386: Yes, sir.

18 CLERK, SCOTT WILSON: Juror Number
19 134, are these your verdicts?

20 JUROR NUMBER 134: Yes, sir.

21 CLERK, SCOTT WILSON: Are they still
22 your verdicts?

23 JUROR NUMBER 134: Yes, sir.

24 CLERK, SCOTT WILSON: Thank you.

25 Juror Number 209, are these your verdicts?

1 JUROR NUMBER 209: Yes, sir.

2 CLERK, SCOTT WILSON: Are they still
3 your verdicts?

4 JUROR NUMBER 209: Yes, sir.

5 CLERK, SCOTT WILSON: Thank you.

6 Juror Number 221, are these your verdicts?

7 JUROR NUMBER 221: Yes, sir.

8 CLERK, SCOTT WILSON: Are they still
9 your verdicts?

10 JUROR NUMBER 221: Yes, sir.

11 CLERK, SCOTT WILSON: Thank you.

12 Juror Number 227, are these your verdicts?

13 JUROR NUMBER 227: Yes, sir.

14 CLERK, SCOTT WILSON: Are they still
15 your verdicts?

16 JUROR NUMBER 227: Yes, sir.

17 CLERK, SCOTT WILSON: Thank you.

18 Juror Number 247, are these your verdicts?

19 JUROR NUMBER 247: Yes.

20 CLERK, SCOTT WILSON: Are they still
21 your verdicts?

22 JUROR NUMBER 247: Yes.

23 CLERK, SCOTT WILSON: Thank you.

24 Juror Number 256, are these your verdicts?

25 JUROR NUMBER 256: Yes.

1 CLERK, SCOTT WILSON: Are they still
2 your verdicts?

3 JUROR NUMBER 256: Yes.

4 CLERK, SCOTT WILSON: Juror Number
5 306, are these your verdicts?

6 JUROR NUMBER 306: Yes, sir.

7 CLERK, SCOTT WILSON: Are they still
8 your verdicts?

9 JUROR NUMBER 306: Yes, sir.

10 CLERK, SCOTT WILSON: Thank you.

11 Juror Number 330, are these your verdicts?

12 JUROR NUMBER 330: Yes, sir.

13 CLERK, SCOTT WILSON: Are they still
14 your verdicts?

15 JUROR NUMBER 330: Yes, sir.

16 CLERK, SCOTT WILSON: Juror Number

17 363, are these your verdicts?

18 JUROR NUMBER 363: Yes, sir.

19 CLERK, SCOTT WILSON: Are they still
20 your verdicts?

21 JUROR NUMBER 363: Yes, sir.

22 CLERK, SCOTT WILSON: Juror Number

23 370, are these your verdicts?

24 JUROR NUMBER 370: Yes, sir.

25 CLERK, SCOTT WILSON: Are they

1 still your verdicts?

2 JUROR NUMBER 370: Yes.

3 CLERK, SCOTT WILSON: Thank you.

4 Juror Number 381, are these your verdicts?

5 JUROR NUMBER 381: Yes, sir.

6 CLERK, SCOTT WILSON: Are they

7 still your verdicts?

8 JUROR NUMBER 381: Yes, sir.

9 CLERK, SCOTT WILSON: Thank you. Is

10 there any juror whose number I did not call?

11 If so, please raise your hand at this time.

12 (No verbal response). Thank you.

13 THE COURT: The jury has been polled

14 and the verdict stands. Thank you very much.

15 Ladies and Gentlemen, I am going to ask that

16 you go to your jury room. There is a form that

17 I am going to give to each one of you as the

18 last charge that I have to give to you. It

19 won't take that long but I need to -- I need to

20 prepare that form to give to you and I'll bring

21 it in there in just a moment.

22 I want to take this opportunity to

23 thank you on behalf of the State of South

24 Carolina and specifically the County

25 Charleston. Please understand that what I am

1 about to say doesn't apply to what the verdicts
2 are, it has nothing to do with that. It has to
3 do with the manner in which you've served your
4 state and county. When I said that it is an
5 honor to have served with you, those aren't
6 just words. I mean it from the bottom of my
7 heart. The sacrifice that each one of you
8 made, there's no way in the world to thank you.
9 All I can do is just thank you for the
10 privilege of living in the same community as
11 people like you. What you've given up to
12 perform this service -- it is not something
13 that you chose to do, not something that you
14 wanted to do but you did it. You did it with a
15 great credit to yourselves as to the way that
16 you approached it. Thank you for that.

17 The instructions is going to be -- and
18 I will tell you now and then tell you again and
19 then tell you I told you. You now are free to
20 talk about this if you wish. That's your
21 choice. What it will have on there is the
22 contact number for Ms. Armstrong and should
23 somebody continue to ask you questions and
24 you've told them that you don't want to talk
25 about it but they persist, please make that

1 known to Ms. Armstrong and she will make that
2 known to me. We'll take action, I promise you.
3 That's not going to happen, I don't think.
4 Should it happen, you shouldn't be bothered
5 with that situation.

6 You are now free to leave. I would
7 just ask that you return to the jury room for
8 just a moment.

9 To my Alternates, thank you. I know
10 you were ready to be a part if need be and I
11 thank you for the sacrifice that you've made as
12 well. You may retire to your jury room.

13 (JURY OUT @ 2:53 P.M.)

14 THE COURT: Nothing from the
15 State at this point?

16 SOLICITOR WILSON: No, sir.

17 THE COURT: Mr. Bloom?

18 MR. BLOOM: Your Honor, we would
19 make a Motion for a new trial and a Motion to
20 set aside the judgment notwithstanding the
21 verdict, and renew all prior objections.

22 THE COURT: Thank you, sir. The
23 rulings on those Motions and objections
24 remains. I believe that the case was one that
25 the jury had to make a decision. I thought the

1 presentation from both sides was very balanced,
2 I thought it was an incredible presentation on
3 behalf of Mr. Dickerson, that the information
4 provided was most informative. I believe that
5 the jury considered that and followed the
6 instruction and, therefore, returned a verdict.
7 Your Motions are respectfully denied.

8 I need a few moments because I have to
9 prepare another form, two forms, that I don't
10 prepare in advance. So if you'all will bear
11 with me, I will be out very shortly. Thank
12 you.

13 (BRIEF RECESS)

14 (DEFENDANT PRESENT)

15 THE COURT: Solicitor, do you have
16 the sentencing sheets? I need to fill those
17 out, too. As ---

18 SOLICITOR WILSON: I do have them.
19 I wasn't sure if you needed them.

20 THE COURT: I do. I think that we
21 have to complete the forms.

22 SOLICITOR WILSON: Okay, (tenders).

23 THE COURT: Anything further from
24 the State?

25 SOLICITOR WILSON: No, sir.

1 THE COURT: Mr. Bloom?

2 MR. BLOOM: Nothing.

3 THE COURT: Thank you. Mr.

4 Dickerson, is there anything that you wish to
5 say?

6 DEFENDANT: (Negative gesture).

7 THE COURT: Mr. Dickerson, the
8 sentence of the court on the kidnaping, and
9 that is Indictment 06-GS-10-2981, that sentence
10 is thirty years and it is concurrent.

11 The sentence of the court on criminal
12 sexual conduct in the first degree, Indictment
13 06-GS-10-8884, is thirty years, concurrent.

14 Credit for time served, on both of those
15 sentences.

16 On Indictment 06-GS-10-3142, the
17 sentence is, as follows: The Defendant,
18 William Oliver Dickerson has been found by the
19 jury to be guilty of the offense of murder.
20 The jury has recommended that the Defendant
21 should be sentenced to death. It is therefore
22 the judgment of the law and the sentence of the
23 court that the Defendant, William Oliver
24 Dickerson, be taken to Charleston County
25 Detention Center and then to the State

1 Department of Corrections; henceforth to be
2 kept in close and safe confinement until the
3 11th day of September, 2009, upon which day
4 between the hours of 6:00 p.m. and 6:00 a.m.,
5 or upon an Order of Execution issued by the
6 South Carolina Supreme Court, the Defendant,
7 William Oliver Dickerson, shall suffer death by
8 electrocution or by lethal injection in a
9 manner provided by law. As you know, that date
10 is an arbitrary date. I place that in there
11 for the purpose of completeness.

12 Also, as I am required to do as the
13 trial judge in the above-entitled action, and
14 prior to the imposition of the sentence, I find
15 that the imposition of the death sentence upon
16 the Defendant, William Oliver Dickerson, as an
17 affirmative fact that the evidence in the case
18 warrants the imposition of a death penalty and
19 its imposition is not the result of prejudice,
20 passion or any other arbitrary factor. I think
21 the record adequately supports it and,
22 therefore, that Order has been signed as well.
23 I will now complete the sentencing sheets,
24 having complied with the two Orders. The
25 sentencing sheets will be forwarded as well, on

1 which I will write that the sentence is death.

2 Good luck to you, sir. God go with you.

3 (TRANSCRIPT CONCLUDED)

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1 CERTIFICATE OF REPORTER

2

3 I, the undersigned, Deborah Garrison,
4 official court reporter for the 9th Judicial
5 Circuit of the State of South Carolina, do
6 hereby certify that the foregoing is a true,
7 accurate and complete transcript of the jury
8 trial held before The Honorable R. Markley
9 Dennis, Jr., on April 17th, 2009 through May
10 7th, 2009;

11 I further certify that I am neither kin nor
12 counsel to any of the parties and have no
13 interest in the outcome of this action.

14

15



16

Deborah Garrison

17

Circuit Court Reporter

18

9th Judicial Circuit

19

20

21

22

23 Charleston, South Carolina

24 January 22, 2010

STATE OF SOUTH CAROLINA)
) COURT OF GENERAL SESSIONS
 COUNTY OF CHARLESTON)

State of South Carolina,)
)
 Plaintiff,)
)
 vs.) No. 06-GS-10-2981 et al
)
 William O. Dickerson,)
)
 Defendant.)

TRANSCRIPT OF HEARING

The within Hearing was held on July 7, 2009, before The Honorable R. Markley Dennis, in Courtroom 4C of the Charleston County Courthouse, 100 Broad Street, Charleston, South Carolina; attended by counsel, as follows:

APPEARANCES:

Scarlett Wilson, Solicitor
 Bruce Durant, Assistant Solicitor
 Rutledge Durant, Assistant Solicitor
 9TH CIRCUIT SOLICITORS OFFICE
 100 Broad Street, 4th Floor
 Charleston, South Carolina 29402
 Appearing for State of South Carolina

Jeffrey Bloom, Esq.
 Drew Carroll, Esq.
 Appearing for Defendant

DEBORAH GARRISON
Circuit Court Reporter - 9th Judicial Circuit
 Post Office Box 901
 Johns Island, South Carolina 29457
dGarrison@sccourts.org

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

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(DEFENDANT NOT PRESENT)

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THE COURT: Thank you all for being here. As I understand from our conference before the Hearing, you are waiving the Defendant's presence -- you and Mr. Carroll do not feel that his presence is necessary. You waive his presence here?

MR. BLOOM: That's correct, Your Honor. I personally spoke with Mr. Dickerson by telephone last week, explained the nature of the Hearing and he agreed through me as counsel to waive his presence. We don't intend to present any witnesses this morning, the Motion is purely legal in nature. So we specifically waive his presence and I would submit that there can be no prejudice to him personally in that regard.

THE COURT: Very well, sir. I will be delighted to hear from you, sir.

MR. BLOOM: Thank you, Your Honor, may it please the Court. This is, of course, the State of South Carolina versus William Dickerson. Jeffrey Bloom and C. Andrew Carroll here, appearing on behalf of Mr. Dickerson.

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

3

1 The case number, for the benefit of the court
2 reporter is 06-GS-10-3142 and also 2981 and then
3 two additional indictment numbers, 08-GS-10-8884
4 and 09-GS-10-2097.

5 Your Honor, we are here on a Motion for
6 a new trial. Of course, the written Motion sets
7 out the grounds. I would refresh the court's
8 recollection of events, if that is helpful. We
9 made a Motion to charge accessory-before-the-
10 fact of murder and accessory-after-the-fact of
11 murder at the appropriate stages during the
12 trial of this case. My notes reflect that we
13 made that Motion prior to closing arguments, we
14 renewed it during -- during the charge
15 conference we made that and then we renewed it
16 after the Solicitor's closing argument but prior
17 to defense's closing argument. We also renewed
18 it prior to the court specifically instructing
19 the jury and renewed it again after the court
20 instructed the jury.

21 Our argument is essentially unchanged,
22 Your Honor. I would add some additional legal
23 grounds, which may not have been apparent at the
24 time that we made it.

25 THE COURT: Certainly.

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

4

1 MR. BLOOM: First off, we of course
2 recognize, as was argued during the trial prior
3 to jury instructions, that there are several
4 cases in South Carolina which say accessory
5 after-the-fact of murder is not a lesser-
6 included -- namely, I think one of the cases
7 argued was *State v. Fuller*, 552 S.E. 2nd 282,
8 a South Carolina Supreme Court case from 2001.
9 Also I believe that a case that we argued to the
10 court at the time was *State v. Collins*, 495 S.E.
11 2nd 202, 1998.

12 The thrust of the argument then, and
13 remains, Your Honor, is that while *Fuller*
14 specifically says that accessory after the fact
15 is not a lesser-included, there are two
16 distinctions that we would note:

17 One, *Collins* later -- *Collins*
18 previously had said that presence was not an
19 essential element any longer for accessory after
20 the fact.

21 THE COURT: Right.

22 MR. BLOOM: Secondly, I would note
23 that both *Collins* and *Fuller* are pre-Gentry
24 cases.

25 THE COURT: Right.

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

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1 MR. BLOOM: And I think *Gentry*
2 changed the nature of what can or cannot be
3 charged to a jury, in which the Court is no
4 longer bound, I don't believe, by lesser-
5 included offenses.

6 In fact, I think it's now -- in the
7 *post-Gentry* world that it is incumbent upon the
8 Court to charge any offense which is covered by
9 the evidence and requested by the defendant.

10 Obviously if a defendant opposed
11 charging an offense that was not a lesser-
12 included or was not indicted, that would be a
13 different issue and then you'd be into a waiver
14 or due process issue.

15 Here, Mr. Dickerson through counsel
16 clearly requested the additional offenses of
17 accessory-before-the-fact and accessory-afer-
18 the-fact to be charged to the jury.

19 I think *Gentry* gives the court
20 jurisdiction to hear any classifications, so
21 the limited construction of whether something is
22 lesser-included or not is no longer relevant. I
23 particularly submit under the Sixth, Eighth and
24 Fourteenth Amendments, in *Beck v. Alabama* that
25 once we are now in a *post-Gentry* world, that any

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

6

1 offenses that are requested by the defendant and
2 are also based on some evidence -- excuse me,
3 some evidence -- should be charged. I
4 specifically note, in fact, that in the *Gentry*
5 case our South Carolina Supreme Court
6 specifically refers to a United States Supreme
7 Court case by the name of *Cotton*, and that of
8 course is contained in the *Gentry* Opinion.

9 So that would be our argument, Your
10 Honor, and basis for new trial in that it should
11 have been instructed to the jury, that denial of
12 that is a denial of due process as well as a
13 violation of the Fifth, Sixth, Eighth and
14 Fourteenth Amendments.

15 Thank you, Your Honor.

16 THE COURT: Thank you. Solicitor,
17 any response?

18 SOLICITOR WILSON: Your Honor, we
19 would rely again on the arguments made at trial
20 and I would just add that it seems that the
21 defense is sort of mixing metaphors in that --
22 taking an analysis that goes to jurisdiction
23 versus an analysis of what is required of this
24 Court. Clearly if these charges were lesser-
25 included offenses, you would have to charge them

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

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1 but they aren't.. The *Beck* case that is cited
2 does apply to lesser-included offenses, it
3 doesn't apply to all offenses. There haven't
4 been cases that say that the court would have to
5 charge any and all offenses. It's understand-
6 able why there hasn't been a case that says
7 that, because that would lead to a whole lot of
8 other charges that would be confusing and
9 unnecessary for the jury to decide.

10 So we would ask that the court deny
11 the Motion for a new trial.

12 THE COURT: Thank you. Any reply?

13 MR. BLOOM: Just alternatively, Your
14 Honor, and I -- I would submit alternatively
15 that accessory before the fact of a felony, as
16 well as accessory after the fact of a felony,
17 now can be encompassed in the lesser-included
18 offense analysis.

19 I reach that -- for accessory before
20 the fact, I cite *State v. Rita Bixby* simply for
21 the definition of accessory before the fact.
22 The *Bixby* case is 644 S.E. 2nd 54, a 2007 case.
23 Simply in reference to it, "accessory before the
24 fact" is defined under 16-1-40 and the case law
25 in the case, that one can be present during the

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

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1 scene of the crime and still be guilty of
2 accessory before the fact.

3 THE COURT: Sure.

4 MR. BLOOM: Excuse me -- for
5 accessory after the fact. Accessory before the
6 fact, I acknowledge, under *Bixby*, and in *Gentry*
7 the element of not being present is still there.
8 But accessory after the fact could be construed
9 to be a lesser-included now that *Collins*
10 eliminated the presence or absence requirement.
11 So alternatively we would submit under *Gentry*
12 all of our previous arguments that it should
13 have been charged. Thank you.

14 THE COURT: Thank you. I think that
15 aspect, the reply argument, that we are getting
16 down to where we were at the trial in arguing
17 that.

18 I appreciate your position and if the
19 Supreme Court wants to take the opportunity in
20 reviewing this matter to open the "but" case, so
21 to speak, because that is precisely what would
22 happen. If we're no longer restricted to the
23 offense and lesser-included offenses then -- how
24 many times have they addressed that issue that
25 they could have easily said rather than siding

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

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1 with the lesser-included offense, just simply
2 said 'Look, the elements supported it, you
3 should have charged it.' It doesn't matter, but
4 they always make the analysis of a lesser-
5 included offense, in my opinion.

6 And I don't read *Gentry* -- *Gentry*
7 changed much, there's no question about that,
8 but I don't read it to say that anytime someone
9 requests a charge that you have to charge it
10 because a construction of the facts could
11 support that particular charge. I just don't
12 think that's where we are.

13 Quite frankly, if that's the case, then
14 every major felony would have accessory before
15 the fact and after the fact, or certainly after
16 the fact now that presence is not a critical
17 issue.

18 I just don't believe that's where the
19 Court went. I think that they had an
20 opportunity to do that. That's my -- I don't
21 profess to have the wisdom and understanding
22 that they do, but -- if they want to change
23 that, they can but I don't read their prior
24 decisions as giving me that authority.
25 Therefore, that's the reason I denied it.

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

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1 It's preserved. It's an interesting
2 point. Thank you.

3 MR. BLOOM: Thank you, Your Honor.

4 (HEARING CONCLUDED)

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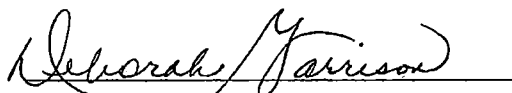
State of South Carolina v. William O. Dickerson
Case No. 06-GS-10-2981 et al
Hearing of July 7, 2009
Before The Honorable R. Markley Dennis, Jr.

11

1 CERTIFICATE OF REPORTER

2
3 I, the undersigned, Deborah Garrison,
4 official court reporter for the 9th Judicial
5 Circuit of the State of South Carolina, do
6 hereby certify that the foregoing is a true,
7 accurate and complete transcript of the Hearing
8 held before The Honorable R. Markley Dennis,
9 Jr., on July 7, 2009;

10 I further certify that I am neither kin nor
11 counsel to any of the parties and have no
12 interest in the outcome of this action.

13
14 

15 Deborah Garrison

16 Circuit Court Reporter

17 9th Judicial Circuit

18
19
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22 Charleston, South Carolina

23 January 22, 2010

REH 2006-03-01492

WITNESSES

WITH HAIR AND/OR

ATT CASEY

PD, BURCKHARDT

CA#: 0604751

ARREST WARRANT NUMBER

H912584

March 11, 2006

MAY 11 2006

ACTION OF GRAND JURY

TRUE BILL

representative of Grand Jury

VERDICT

representative of Petit Jury

Date:

DOCKET NO. 2006-GS-10-

2981

The State of South Carolina

County of Charleston

COURT OF GENERAL SESSIONS

MAY TERM 2006

THE STATE

v.

WILLIAM OLIVER DICKERSON

06-1455(02)

Indictment for

KIDNAPPING

BY JUDITH A. ARMSTRONG
CLERK OF COURT

2006 JUN -2 PM 1:31

FILED

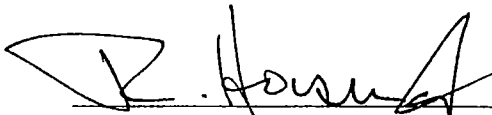
STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)

INDICTMENT FOR
KIDNAPPING

At a Court of General Sessions, convened on May 1, 2006, the Grand Jurors of
Charleston County present upon their oath:

That in Charleston County between March 7, 2006, and March 9, 2006, William Oliver
Dickerson feloniously did seize, kidnap, abduct, confine, or carry away Gerard Roper, without
the authority of law. This in violation of Section 16-3-910 of the South Carolina Code of Laws
(1976), as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and
provided.



RALPH E. HOISINGTON
SOLICITOR

WITNESSES

EITH HAIR AND/OR

ATT CASEY

PD, BURCKHARDT

CA#: 0604751

ARREST WARRANT NUMBER

H-912555

March 11, 2006

ACTION OF GRAND JURY

TRUE BILL
[Signature]
Representative of Grand Jury

VERDICT

Representative of Petit Jury

Date:

DOCKET NO. 2006-GS-10-3142

The State of South Carolina

County of Charleston

COURT OF GENERAL SESSIONS

MAY TERM 2006

THE STATE

v.

WILLIAM OLIVER DICKERSON

06-1455(01)

Indictment for

MURDER

FILED
2006 JUN -2 PM 1:31
JULIE L. HARRIS IRON
CLERK OF COURT
BY *[Signature]*

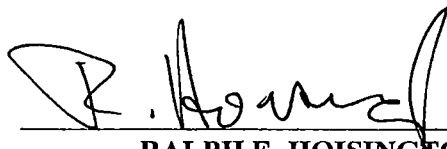
STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)

INDICTMENT FOR
MURDER

At a Court of General Sessions, convened on May 1, 2006, the Grand Jurors of
Charleston County present upon their oath:

That in Charleston County between March 7, 2006, and March 9, 2006, with malice
aforethought, William Oliver Dickerson did kill and murder Gerard Roper by means of strangling
the victim with a ligature and beating him with num chucks and other unknown objects, and that
Gerard Roper did die in Charleston County as a proximate result thereof between March 7, 2006,
and March 9, 2006. This is in violation of Section 16-3-10 of the South Carolina Code of Laws
(1976), as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and
provided.



RALPH E. HOISINGTON
SOLICITOR

SAW20060301492

WITNESSES

Charleston City Police Department

AGENCY CASE NUMBER

0604751

ARREST WARRANT NUMBER

DIRIND0391

DATE OF ARREST

October 3, 2008

ACTION OF GRAND JURY

Foreperson of Grand Jury

Date:

NOV 03 2008

INDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2008GS1008884

The State of South Carolina

County of Charleston

COURT OF GENERAL SESSIONS

November 2008 Term

THE STATE

vs.

WILLIAM OLIVER DICKERSON

DOB: 1976-08-24

B/M

Indictment for

CRIMINAL SEXUAL CONDUCT -
FIRST DEGREE

FILED

2008 NOV -6 PM 12:27

JULIE J. ARMSTRONG
CLERK OF COURT

BY _____

INDICT.DOT

4458

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)

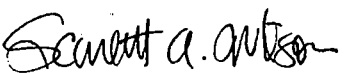
INDICTMENT

At a Court of General Sessions, convened on November 3, 2008, the Grand Jurors of Charleston County present upon their oath:

CRIMINAL SEXUAL CONDUCT - FIRST DEGREE

That in Charleston County, South Carolina, between March 7, 2006, and March 9, 2006, the Defendant, **William Oliver Dickerson**, did commit a sexual battery upon the victim, Gerard Roper, without his consent, and with the use of aggravated force, to wit: defendant forced objects in the rectum of the victim; all in violation of Section 16-3-652, Code of Laws of South Carolina, (1976, as amended).

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



SCARLETT A. WILSON
SOLICITOR

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)
STATE OF SOUTH CAROLINA)
-VS-)
WILLIAM O. DICKERSON, Jr.)
Defendant)

IN THE COURT OF GENERAL SESSIONS
FOR THE NINTH JUDICIAL CIRCUIT
Case No. 06-GS-10-3142; 06-GS-10-2981;
08-GS-10-8884, 09-GS-10-2097

MOTION FOR NEW TRIAL

FILED
2009 MAY 15 PM 4:08
JULIE J. ARMSTRONG
CLERK OF COURT

The defendant, William O. Dickerson, Jr., by and through counsel, moves the Court to grant a New Trial in this matter, based upon the prior denial by the trial court to instruct the jury on the offenses of Accessory Before the Fact of Murder and/or Accessory After the Fact of Murder; and including all other previous motions, objections, and submissions to the Court in this case.

As a preliminary matter, prior to 1998 the Court held that Accessory After the Fact of Murder is not a "lesser-included" offense of Murder. *State v. Collins*, 329 S.C. 23, 495 S.E.2d 202 (1998). This was because an element of Accessory After the Fact was that the defendant must be absent at the time of the crime. *Id.*, 239 S.C. at 26, 495 S.E.2d at 204. *Collins* eliminated the "absence" requirement, beginning with the date of that decision. *Id.* 239 S.C. at 27-28, 495 S.E.2d 205. *Accord, Hooks v. State*, 353 S.C. 48, 577 S.E.2d 211 (2003) (At the time of Hooks plea, absence from the scene of the crime was still required, making Accessory After the Fact not a lesser-included of murder at that time; but the Hooks court recognized that *Collins* removed the "absence" element for future cases concerning Accessory). Thus, the remaining elements of Accessory After the Fact make a defendant who is in fact present at the time of the crime of Murder also subject to conviction as an Accessory.

However, after *State v. Gentry*, 363 S.C. 93, 610 S.E.2d 494 (2005), the trial court of General Sessions now has jurisdiction to hear all classes of cases as encompassed by the state constitution, statutes, and common law. In other words, the presentment of an Indictment – for either Accessory offense – is not necessary for the trial court to have jurisdiction of that offense. An indictment is now merely a “notice” document under *Gentry. Id.*, 363 S.C. at 102, 610 S.E.2d at 500. Since the indictment no longer confers jurisdiction upon the trial court, then any offense which is supported by the evidence – and not merely a lesser-included offense – must be charged to the jury for its consideration.

Furthermore, in the context of a capital case, the trial court is required to instruct the jury on any lesser or available offenses. *Beck v. Alabama*, 447 U.S. 625, 100 S. Ct. 2382, 65 L. Ed. 2d 392, 1980 U.S. LEXIS 134 (1980). While *Beck* applied specifically to lesser included offenses available under state law, *Gentry* eliminated the jurisdictional requirement previously conferred on the trial court by the indictment and thus the need for strict lesser included offenses. Thus, as a matter of due process, and Eighth Amendment jurisprudence, and as a matter of state law post-*Gentry*, the Accessory Before the Fact of Murder and Accessory Before the Fact of Murder should have been submitted to the jury.

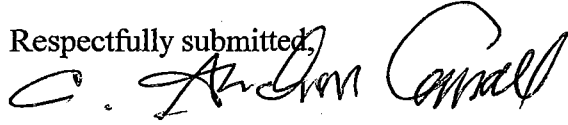
The defendant makes this Motion pursuant to the case law cited herein, and the U.S. Constitution Amend. 5, 6, 8, and 14; S.C. Constitution Art. I §§ 3, 14, 15; Rule 29 of the S.C. Rules of Criminal Procedure; and other applicable law.

WHEREFORE, the defendant, William O. Dickerson, Jr., moves this Court to grant a new trial for the reasons stated herein; and furthermore, hereby reserves his right to appeal his

convictions and sentences, until this Motion is heard and ruled upon by the trial court, pursuant to R.

29, SCRCrim.P.

Respectfully submitted,



Counsel for the Defendant

Dated: May 15, 2009

Jeffrey P. Bloom
Attorney At Law
1911 Pickens St.
Columbia, S.C. 29201
Tele. # (803) 256-7001
Fax # (803) 256-7002
JPBloom803@aol.com

C. Andrew Carroll
The Joye Law Firm
5861 Rivers Avenue
N. Charleston, S.C., 29406
Tele. # (843) 554-3100
Fax # (843) 554-6539
drewcarroll@joyelawfirm.com

FILED

2009 MAY 15 PM 4:01

JULIE J. ARMSTRONG
CLERK OF COURT

BY _____

TRANSCRIPTOF PHONE CALL BETWEEN
WILLIAM DICKERSON & TOMISHA NELSON

TN = Tomisha Nelson
WD = William Dickerson
GR = Gerard Roper

TN – Don't pull that shit out again – go sit down.

WD – Hey

TN – Ya man

WD – Hey baby listen to me man now – I see those people he know

TN – Leave those people alone – you makin' the shit worser – Why - Why

WD – Shelly listen to me

TN – All I want to know – Why - Gerard don't feel bad – I got beat up for shit
I know - I aint did shit

WD – Shelly – girl – Gerard's worser beat up girl – the nigger boonky bigger then yours
now

TN – Uhhhhh

WD – Word is born on my daddy – Gerard tell how big your boonky is – hold on listen

GR – My boonky had a gun and a broom in it

WD – I tell you I say – I'm gonna take all your teeth out

TN – You put a gun and a broom in his ass

WD – If I – If I aint did this – Sandra is a bitch. I'll pea on my momma – ask him – word
is born

TN – What he had did – huh – did ya just flip on him

WD – Yea – he was a part of it – he didn't answer my calls all day – he was a part of it –
Don't move – nigger ---- so listen – I don't think this is a game – too many years –
Shelly do you hear me

TN – I'm listening

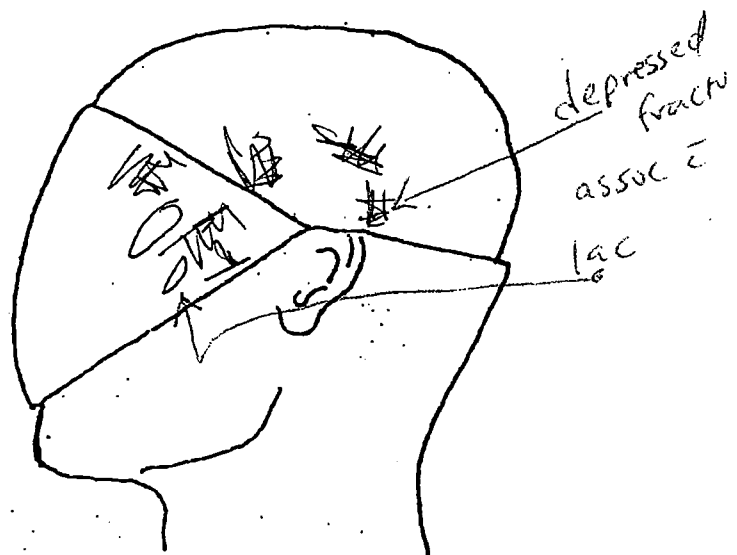
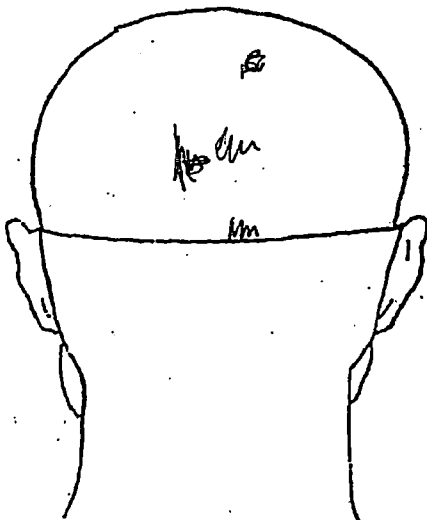
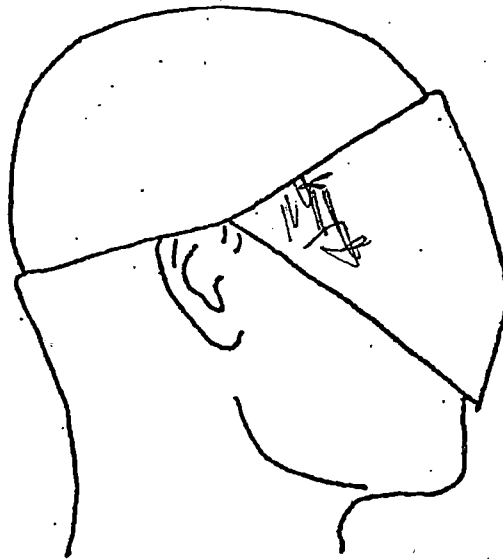
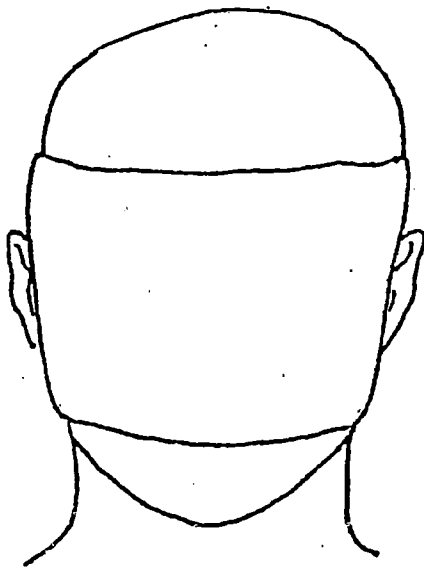
WD – Gerard aint answer my call – he's my main man – Shelly they all (...not audible..)

TN – Avoiding you

WD – Ya – the nigger been avoiding you – Shelly listen to me – Shelly remember how
Gerard would call me all day – every day – just like this nigger flip – yesterday
you don't even know where I been at right

TN – Ummmmmm

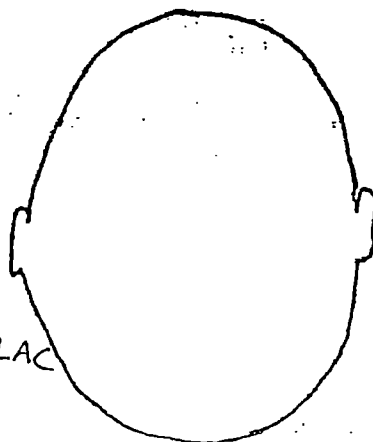
END OF RECORDED CALL



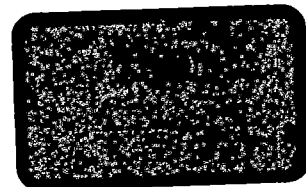
③ temporalis
m.
hem.
L > R

Calvarium -
skull fracture
underlies L large LAC

ØSAH ØSDH



hem assoc E lac S



DR. SCHMIDT/DRM/RE

CONTENTS

NRN: (0609)000024040

ACHA

Pathologist

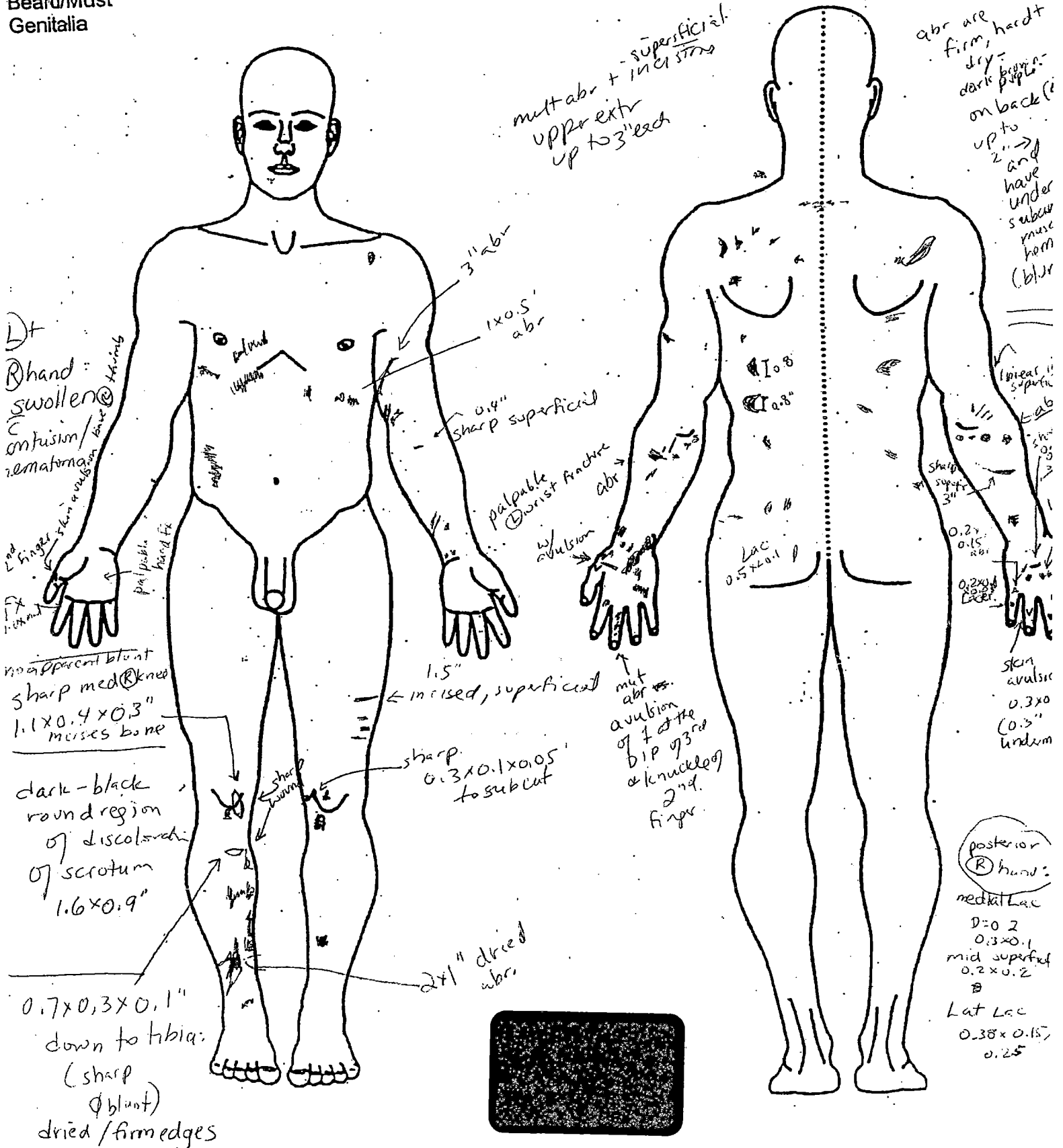
NAME: ROPER, GERALD
AUTOPSY # FA-06-00165

DATE: 03/09/06

Weight
Length
Temp
Rigor
Livor
Hair
Eyes
Teeth
Beard/Must
Genitalia

Superficial Abrasions INJURY + Incisions

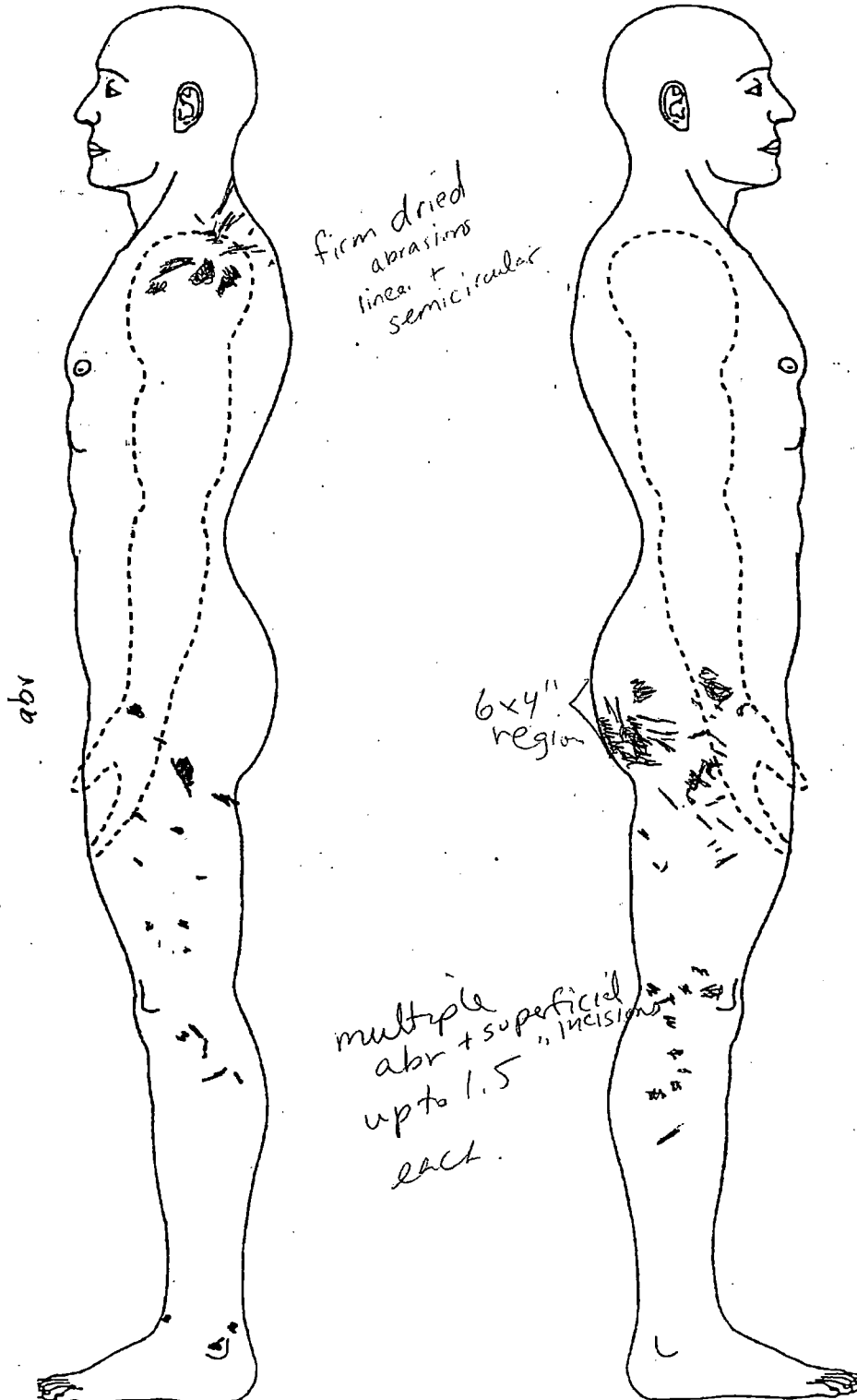
(also see head diagram)



Height (inches)

NAME: ROPER, GERALD
AUTOPSY # FA-06-00165

DATE: 03/09/06



Pathologist

STATE OF SOUTH CAROLINA,

CP-10-

COUNTY OF CHARLESTON

PLAINTIFF STATE

VS

DEFENDANT

WILLIAM O. DICKERSON

		JUROR'S NUMBER	STRIKES		
			PLTF.	DEF.	
41	MICHAEL JOHNSON ✓ W/M	157		X	1
51	~~SHERRI~~ BARKER ✓ W/M	11		X	2
161	DEBORAH McTERAUD W/F	381	*		3
171	ELAINE PRIOLEAU B/F	247			4
281	SUSAN MULLEN ✓ W/F	221			5
911	MARILYN GRANT ✓ B/F	364	X		6
301	① MICHAEL PAGE W/M	234			7
311	② CHRISTINA AREHEART W/F	7		*	8
321	③ THERESA ANCRUM B/F	4		*	9
331	④ REGINA DOBSON B/F	72	*		10
341	DANA PRIDGEN W/F	246	*		11
351	RENALA WATERS ✓ B/F	331			12
361	SAMANTHA IORIO W/F	148		*	13
371	CHRISTOPHER GASKINS B/M	104			14
381	JOAN DEDEN W/M	69	*	X	15
391	ANDREA FERGUSON W/F	90	*		16
101	SUZANNE ULMER ✓ W/F	319			17
111	LAURA BRADSHAW W/F	26		*	18
121	TAMEKA SINGLETON ✓ B/F	1281			19
131	DANIEL SUGGS ✓ W/F	1304			20
ALTERNATE				ALTERNATE	
141				*	21
151				*	22
161				*	23

STATE OF SOUTH CAROLINA

CP-10-

COUNTY OF CHARLESTON

PLAINTIFF

STATE

VS

DEFENDANT

WILLIAM O. DICKERSON

			JUROR'S NUMBER	STRIKES		
				PLTF.	DEF.	
1	NATHAN HOOD	✓ W/M	370			1
2	JOSHUA PARTEE	✓ W/M	386			2
3	JAMES NICKLAUS	W/M	228	X		3
4	~~DENADE HEYWARD~~		133			4
5	LAURI NEWKIRK PAGGI	✓ W/F	227			5
6	CHARLES HIGH	✓ W/M	134			6
7	~~JANET BERGEN~~		19			7
8	DIANE BUCHANAN	W/F	37		X	8
9	ROBERT JONES	W/M	160		X	9
10	GEORONA GADSDEN	B/F	101	X		10
11	MELISSA FIELDS-COPELAND	B/F	92	X		11
12	LISA ROBINSON	✓ B/F	256			12
13	MARY COX	W/F	402		X	13
14	DEBRA GRANT	✓ B/F	363			14
15	JAMES MARTIN	W/M	378	X	X	15
16	SALLYLISHA TOOMER	B/F	315	X		16
17	REBEKAH SZIVAK	✓ W/M	306			17
18	CHARLES HALL	W/M	124		X	18
19	GARRETT WATERMAN	✓ W/M	330			19
20	DONNA MELVILLE	✓ W/F	209			20
ALTERNATE				ALTERNATE		
21	STEVEN WINEINGER	W/M	343		X	21
22	DAVID ISHMAEL	W/M	149		X	22
23	VIRGINIA TOMPKINS	W/F	314		X	23

STATE OF SOUTH CAROLINA,

PANEL
1

CP-10-

COUNTY OF CHARLESTON

PLAINTIFF

VS

DEFENDANT

9:30

TURN				JUROR'S NUMBER	STRIKES		
					PLTF.	DEF.	
1	Nathan Hood	5-23	Y/O W/M	370			~~Q~~
2	Martene Marton	1-64	B/F	383			~~X~~
3	Terry Manier	1-44	W/M	377			~~X~~
4	Nathaniel Simmons	1-63	B/M	278			~~X~~
5	Joshua Partee	4-27	W/M	386			~~Q~~
6	James Nicklaus	3-62	W/M	228			~~Q~~
7							7
8							8
9							9
10							10
11							11
12							12
13							13
14							14
15							15
16							16
17							17
18							18
19							19
20							20
ALTERNATE						ALTERNATE	
21							21
22							22
23							23

OBT

* When calling your strikes, please call number in far left column.
Numbers in Juror's Number Column is the number on the venire.

THE PRESIDING JUDGE REQUIRES THAT YOU ANSWER TO THE BEST OF YOUR KNOWLEDGE THE FOLLOWING QUESTIONS AND RETURN WITHIN THREE DAYS OF RECEIPT OF THIS LETTER.

JUROR QUESTIONNAIRE

PLEASE PRINT YOUR ANSWERS IN
BLUE OR BLACK INK ONLY.

young/ blonde
baby face

- stone eye 4 eye
- but some people NG
- "and"

- BQ / Shifter

- ADP of MR + A/C ?

To Prospective Jurors:

Please answer all of the questions as completely and honestly as you can. You may be questioned in Court, but your answers to these questions entered herein will speed the process.

Please do not assume anything from these questions. The fact that any one or all of them are being asked does not necessarily have anything to do with the evidence you will hear.

As you answer the questions, please keep in mind that there are no "right" or "wrong" answers.

Do not assume that any of your answers will qualify you or disqualify you from serving on this jury.

JUROR NUMBER:

370

1. Name: Nathan Hood

Age: 23

Date of Birth: 1/1/94
Month Day Year

2. Address: 1711 S. C. R 9451

What is Your Race?: white

Do you: (check one) ☒ Rent ☐ Own ☐ Live with other family member/friends

What community or area do you live in? The old Village

How long have you lived in Charleston County? 20 years

Have you lived outside of Charleston County within the last 10 years? Yes

If so: Where: New York, Hawaii When: last 2 years

3. What is your marital status? (Check all that apply)
☒ Never married ☐ Married (how long?) ☐ Divorced

☐ Separated☐ Widow/Widower

4. If married, is your spouse: (Check all that apply)

☐ Currently Employed☐ Unemployed☐ Homemaker☐ Retired☐ Student

5. Name of Spouse: _____

6. Employer of Spouse: _____

7. Educational level of Spouse: _____

8. What kind of work does your Spouse do? _____

9. If you have children, list the number, ages and gender: _____

10. What are (or were) your parents' primary occupations?

Mother: Elementary School teacherFather: Bum b

11. Are you: (Check all that apply)

☒ Currently Employed☐ Unemployed☐ Homemaker☐ Retired☐ Student☐ Disabled

12. Name of your employer:
- The Red Drum Gastro Pub

Address: 27 Coleman Blvd. Mt. Pleasant SC 29464How long have you worked there? 3 years

13. Please give a description of work you do at your job:

~~Swes~~ Swes Chef / Grill

Do you (or did you) have a second job?

☒ yes☐ no

If yes, please explain:

I work on a farm some A.M.s

14. Are you the primary wage earner for your family?
- ☒
- yes
- ☐
- no

Are you a salaried or hourly employee?

☒ salaried☐ hourly

15. Please list any other jobs, occupations, and employers you have held in the last 10 years:

Gigi's Trattoria - N.Y.

Alan Wong's Oahu Hawaii

16. Have any of your jobs involved supervisory responsibilities? ☒ yes ☐ no

Explain: I watch over all the line cooks

17. Please name the schools you have attended, their locations, and the grade level completed:

Grade School: Sullivan's Island Elementary (all)

Junior High School: Waring School of the Arts (5-11)

High School: Wanda (12)

18. If you attended college, what school or university? The Culinary Institute of America

Major Subject: Culinary

Minor Subject: Nutrition

Did you graduate? ☒ yes ☐ no

What degree(s) did you receive? AOS

19. If you attended graduate school after college, what was your:

Major Subject: _____

Minor Subject: _____

What university did you attend? _____

What degree(s) did you receive? _____

20. What type of training, if any, have you received beyond high school?

Restaurant

21. If you were in the service (including National Guard or Reserves), please state:

Branch: _____ Highest Rank: _____

Occupational Specialty: _____ Dates of Service: _____

Type of Discharge: _____

Please describe combat experience, if any: _____

22. Are you a member of any church, temple, or other religious organization? { } yes { ☒ } no

If so, what is the name and location? _____

23. What activities, if any, are you involved with at present with your church, temple, or religious organization?

24. What societies, unions, professional associations, volunteer groups, civic clubs, or other organizations have you or any family members joined?

Are you/they presently a member? { } yes { } no

25. Do you know any of the following attorneys or have you, or any family member or close personal friend, been represented by any of them?:

___ Solicitor Scarlett Wilson

___ Deputy Solicitor Bruce DuRant

___ Attorney C. Andrew Carroll, of the Joye Law Firm

___ Attorney Jeffrey P. Bloom, of Columbia.

If you checked yes, please explain:

26. Have you ever served as a juror, witness or a party in a law suit? { } yes { ☒ } no

If yes, which one? Juror _____ Witness _____ Party to Law Suit _____

In which court: { } State Court How many times? _____
 { } Federal Court How many times? _____
 { } Military Court How many times? _____

What type(s) of civil case(s)? _____

What type(s) of criminal case(s)? _____

Have you ever served on a grand jury? { } yes { ☒ } no
 If yes, how many times? _____

27. Have you, or any family members or anyone close to you, ever studied law? { } yes { ☒ } no
 If yes, please describe:

28. Have you, or any family or household members, ever been employed by any organization, or connected with any organization that represents or assists criminal defendants, or crime victims? If so, where and when, and please explain?

29. Have you, or any family or household members, been employed by law enforcement or applied for work with law enforcement? { } yes { ☒ } no
 If yes, please state where and when: _____

30. Have you, or any family or household members, ever received any training in law enforcement? { } yes { ☒ } no If yes, please describe the training, job title, and your relationship:

31. Have you, or any family or household members, ever volunteered your services to any law enforcement agency? { } yes { ☒ } no
 If yes, please describe: _____

32. Have you, or any family or household members, now or ever been connected with a member of a Solicitor or Prosecutor's Office, by blood or marriage, or as a close friend? { } yes { ☒ } no If yes, please state who, which office, position held, and dates:

33. Do you personally know anyone in the Solicitor's Office or Public Defender Office?
34. Have you, or any family or household members, ever had the occasion to use the services of any state or federal prosecutor's office? ^{no}
☐ yes ☒ no If yes, please describe:

35. Have you, or any member of your immediate family or household, ever been a victim of a crime?
☒ yes ☐ no If yes, please describe:
car stolen, Robbed, Fight

36. Was anyone arrested for any of the above incidents? ☐ yes ☒ no
 What, if anything, happened to the person charged after the arrest? _____

- If there was a trial, did you testify? ☐ yes ☒ no
37. Have you known anyone who died as the result of a violent act? ☒ yes ☐ no
38. Have you, or any family or household member, ever been a witness to a crime?
☐ yes ☒ no If yes, please describe:

39. What crime? _____
 When? _____
 Result? _____
40. What are your main source(s) of news and information? (Check all that apply)
☐ Television ☒ Newspaper ☐ News Magazines

☒ Conversations with others ☒ Radio
☒ Internet { } Other

41. Do you presently have a magazine subscription? { } yes ☒ no
 If yes, please identify: _____

42. Which newspapers do you read? (Check all that apply)
 { } USA Today { } The Post and Courier ☒ Other

List all other newspapers and magazines that you presently read: New York Times

How often do you read the newspaper?

{ } Daily { } Most Days { } Weekends ☒ Seldom { } Never

What internet sites, if any, do you read for news and information?

Google News, Food News,

43. What television shows do you regularly watch? None

What radio stations/programs do you presently listen to? Pandora, PBR

44. Which television stations do you watch for local and state news? none

Which radio stations do you listen to for local and state news? none

45. Do you, or any member of your immediate family or household, have any educational training, professional or volunteer employment in the following fields? (Check all that apply)

Self

Family

Medicine (including nursing, EMT)
 Psychology, Counseling, Mental Health
 Criminal Justice, Government
 Political Science, Police Sciences, Sociology
 Forensic Sciences, Pathology
 Biology, Chemistry
 Religion, Philosophy, Ethics
 Photography, Videography
 Security/Investigative Services
 Social Work

{ } { }
 { } { }
 { } { }
 { } { }
 { } { }
 { } { }
 { } { }
 { } { }
 { } { }

Briefly describe the relationship to you and the area of work of the person(s) for any of the above categories you have checked: _____

46. Have you ever had a bumper sticker on your car? ☒ yes { } no
 If yes, what did it say:

Black Beards flag

47. What is your opinion, if any, about the death penalty?

Good.

49. Have you, or any member of your immediate family or household, ever belonged to any group or organization that is either in favor or opposed to the death penalty, or attended a rally, handed out leaflets, signed petitions, lobbied legislators, campaigned on the death penalty issue, or traveled to the site of a scheduled execution? { } yes ☒ no
 If yes, please explain:
- _____
- _____

50. Is there other information which you believe might be important for the Court and attorneys to know? ☒ yes { } no
 If yes, please explain:

I Really dislike Police officers.

JUROR INFORMATION SECTION
(PLEASE PRINT OR TYPE CLEARLY)
JURY STATE OF BIRTH: SC
AGE: 27
DATE OF BIRTH: 04-20-2009
JUROR NUMBER: 386
OF CHILDREN: 2
MARRIED: ☐ SINGLE: ☒ WIDOWED: ☐ DIVORCED: ☐
PRESENT OR FORMER EMPLOYER: EDDENWATER PLANTATION
YEARS: 1-5
NAME OF SPOUSE: N/A
SPOUSE'S PRESENT OR FORMER EMPLOYER: N/A
YEARS:
HAVE YOU EVER SERVED ON A JURY?
☐ CIVIL JURY ☐ CRIMINAL JURY
SO WHEN?
HAVE YOU EVER BEEN A PARTY TO A CIVIL LAWSUIT? ☐ YES ☒ NO
HAVE YOU EVER BEEN CONVICTED OF A CRIME (OTHER THAN A MINOR TRAFFIC OFFENSE)? ☐ YES ☒ NO
NAME AND ADDRESS CORRECTION: If the information below is incorrect, please write in the correct information in the space provided to the left.
MOUNT PLEASANT, SC 29464
PARTEE JOSHUA M.
MOUNT PLEASANT, SC 29464

HOME PHONE # 803-960-4157
BUSINESS PHONE # 904-553-4177
SPOUSE'S BUSINESS PHONE # 843-343-6661
EMERGENCY PHONE # 803-460-7141
EMAIL ADDRESS joshuaparter@yahoo.com
JUROR RESPONSE SECTION INSTRUCTIONS
Retain the top portion of this form for your reference and return the bottom portion of the form along with any required affidavits or written statements in the self-addressed envelope provided.
Note: Unless the clerk of court otherwise notifies you, you must report for jury duty as requested.

DISQUALIFICATIONS
☐ I am not a U.S. citizen.
☐ I am not a resident of this county. (Note correct address above.)
☐ I cannot read, write, speak, or understand the English language.
Translator's name and telephone #:
☐ I have less than a sixth grade education or its equivalent.
☐ I have a mental or physical condition that prevents me from serving as a juror. (Doctor's statement required)
☐ I have been convicted in a state or federal court of a crime that carries a sentence of more than one year of imprisonment and I have not been pardoned or given amnesty for that conviction. List offenses, when and where convicted:
☐ I am a clerk of court, deputy clerk of court, constable, sheriff, commissioned law enforcement officer, probate judge, county commissioner, magistrate, or county officer, or I am employed within the walls of a courthouse. Occupation:
☐ I have served on a circuit court jury within this calendar year.
Date of service: _____ County: _____

EXEMPTIONS
☐ I am 65 years of age or older and wish to be excused. (If you do not wish to serve on a jury, you may telephone the clerk of court to be excused. Unless you are excused by the clerk of court prior to the term for which you are summoned, you must report for jury duty.)
☐ I am the primary caretaker of a disabled person or a person age 65 or older who cannot care for himself. ***
☐ I have legal custody and duty of care of a child under the age of seven and I cannot provide adequate childcare while serving as a juror. ***
☐ I am a guard, keeper, employee, or other officer at a state penitentiary.
☐ I have served on a circuit court jury during the previous two calendar years, or I have served on a grand jury during the previous four calendar years. Date of Service: _____ County: _____
Jury Type: ☐ Circuit Court ☐ Grand Jury
☐ I am a student or a school employee and wish to be transferred to a later date that will not conflict with my school term.
Date Available for Service: _____
[When you return this form, you must also send evidence of school enrollment or employment.]
*** An affidavit (notarized statement) must be returned with this form attesting to the above statements.

I HAVE READ THE CONDITIONS FOR DISQUALIFICATION AND EXEMPTION ABOVE AND NONE OF THE CONDITIONS LISTED APPLY TO ME.
NOTE: THE FURNISHING OF FALSE OR MISLEADING INFORMATION OR THE FAILURE TO FURNISH INFORMATION TO THE COURT MAY SUBJECT YOU TO PENALTIES AS PRESCRIBED BY LAW.
YOUR SIGNATURE [Signature]
A 235E (7/2005) NOTE: Participation of all eligible citizens as jurors is encouraged. If you need specific accommodations, courthouse staff will be available for assistance.

THE PRESIDING JUDGE REQUIRES THAT YOU ANSWER TO THE BEST OF YOUR KNOWLEDGE THE FOLLOWING QUESTIONS AND RETURN WITHIN THREE DAYS OF RECEIPT OF THIS LETTER.

JUROR QUESTIONNAIRE

PLEASE PRINT YOUR ANSWERS IN
BLUE OR BLACK INK ONLY.

*brown hair
big bangs
husky*

- this juror hasn't thought a lot DP much

"want to hear it all" - sub ab. - "yeah like will all"

DK eye 4 eye

no strong reason for DP

To Prospective Jurors:

Please answer all of the questions as completely and honestly as you can. You may be questioned in Court, but your answers to these questions entered herein will speed the process.

Please do not assume anything from these questions. The fact that any one or all of them are being asked does not necessarily have anything to do with the evidence you will hear.

As you answer the questions, please keep in mind that there are no "right" or "wrong" answers.

Do not assume that any of your answers will qualify you or disqualify you from serving on this jury.

JUROR NUMBER:

386

1. Name: JOSHUA PARTEE

Age: 27

Date of Birth: 981
Month Day Year

2. Address: MR. PLEASANT, S.C. 29464

What is Your Race?: WHITE

Do you: (check one) ☒ Rent { } Own { } Live with other family member/friends

What community or area do you live in? EDGEWATER PLANTATION

How long have you lived in Charleston County? 7 YEARS

Have you lived outside of Charleston County within the last 10 years? YES

If so: Where: NORFOLK, VA When: OCTOBER, 2002

3. What is your marital status? (Check all that apply)

☒ Never married { } Married (how long?) { } Divorced

☐ Separated ☐ Widow/Widower

4. If married, is your spouse: (Check all that apply)

☐ Currently Employed ☐ Unemployed ☐ Homemaker
☐ Retired ☐ Student

5. Name of Spouse: _____

6. Employer of Spouse: _____

7. Educational level of Spouse: _____

8. What kind of work does your Spouse do? _____

9. If you have children, list the number, ages and gender: 1 DAUGHTER / 1 MONTH

10. What are (or were) your parents' primary occupations?

Mother: REAL ESTATE

Father: RELEASED

11. Are you: (Check all that apply)

☒ Currently Employed ☐ Unemployed ☐ Homemaker
☐ Retired ☐ Student ☐ Disabled

12. Name of your employer: EDGEWATER PLANTATION

Address: 100 EIGHTY OAK AVENUE, MT. PLEASANT, S.C., 29464

How long have you worked there? 2 YEARS

13. Please give a description of work you do at your job:

MAINTENANCE OF APARTMENTS

Do you (or did you) have a second job? ☒ yes ☐ no

If yes, please explain:

CATERING

14. Are you the primary wage earner for your family? ☒ yes ☐ no

Are you a salaried or hourly employee? ☐ salaried ☒ hourly

15. Please list any other jobs, occupations, and employers you have held in the last 10 years:

16. Have any of your jobs involved supervisory responsibilities? { } yes {X} no

Explain: _____

17. Please name the schools you have attended, their locations, and the grade level completed:

Grade School: MANNING PRIMARY SCHOOL

Junior High School: MANNING MIDDLE SCHOOL

High School: MANNING HIGH SCHOOL

18. If you attended college, what school or university? TRENT TECH.

Major Subject: TELECOMMUNICATIONS Minor Subject: _____

Did you graduate? { } yes {X} no

What degree(s) did you receive? N/A

19. If you attended graduate school after college, what was your:

Major Subject: _____ Minor Subject: _____

What university did you attend? _____

What degree(s) did you receive? _____

20. What type of training, if any, have you received beyond high school?

21. If you were in the service (including National Guard or Reserves), please state:

Branch: _____ Highest Rank: _____

Occupational Specialty: _____ Dates of Service: _____

Type of Discharge: _____

Please describe combat experience, if any: _____

22. Are you a member of any church, temple, or other religious organization? { } yes {X} no

If so, what is the name and location? _____

23. What activities, if any, are you involved with at present with your church, temple, or religious organization?

N/A

24. What societies, unions, professional associations, volunteer groups, civic clubs, or other organizations have you or any family members joined?

N/A

Are you/they presently a member? { } yes {X} no

25. Do you know any of the following attorneys or have you, or any family member or close personal friend, been represented by any of them?:

___ Solicitor Scarlett Wilson

___ Deputy Solicitor Bruce DuRant

___ Attorney C. Andrew Carroll, of the Joye Law Firm

___ Attorney Jeffrey P. Bloom, of Columbia.

If you checked yes, please explain:

26. Have you ever served as a juror, witness or a party in a law suit? { } yes {X} no

If yes, which one? Juror _____ Witness _____ Party to Law Suit _____

In which court: { } State Court How many times? _____
 { } Federal Court How many times? _____
 { } Military Court How many times? _____

What type(s) of civil case(s)? _____

What type(s) of criminal case(s)? _____

Have you ever served on a grand jury? { } yes { } no
 If yes, how many times? _____

27. Have you, or any family members or anyone close to you, ever studied law? { } yes {X} no
 If yes, please describe: _____

28. Have you, or any family or household members, ever been employed by any organization, or connected with any organization that represents or assists criminal defendants, or crime victims?
 If so, where and when, and please explain?

no

29. Have you, or any family or household members, been employed by law enforcement or applied for work with law enforcement? { } yes {X} no
 If yes, please state where and when: _____

30. Have you, or any family or household members, ever received any training in law enforcement?
 { } yes {X} no If yes, please describe the training, job title, and your relationship: _____

31. Have you, or any family or household members, ever volunteered your services to any law enforcement agency? { } yes {X} no
 If yes, please describe: _____

32. Have you, or any family or household members, now or ever been connected with a member of a Solicitor or Prosecutor's Office, by blood or marriage, or as a close friend?
 { } yes {X} no If yes, please state who, which office, position held, and dates: _____

33. Do you personally know anyone in the Solicitor's Office or Public Defender Office? ☒ no
34. Have you, or any family or household members, ever had the occasion to use the services of any state or federal prosecutor's office?
☐ yes ☒ no If yes, please describe:

35. Have you, or any member of your immediate family or household, ever been a victim of a crime?
☐ yes ☒ no If yes, please describe:

36. Was anyone arrested for any of the above incidents? ☐ yes ☒ no
 What, if anything, happened to the person charged after the arrest? _____

- If there was a trial, did you testify? ☐ yes ☒ no
37. Have you known anyone who died as the result of a violent act? ☐ yes ☒ no
38. Have you, or any family or household member, ever been a witness to a crime?
☐ yes ☒ no If yes, please describe:

39. What crime? _____
 When? _____
 Result? _____
40. What are your main source(s) of news and information? (Check all that apply)
☒ Television ☐ Newspaper ☐ News Magazines

☒ Conversations with others ☐ Radio
☒ Internet ☐ Other _____

41. Do you presently have a magazine subscription? ☐ yes ☒ no
 If yes, please identify: _____

42. Which newspapers do you read? (Check all that apply)
☐ USA Today ☐ The Post and Courier ☐ Other _____

List all other newspapers and magazines that you presently read: _____

How often do you read the newspaper?

☐ Daily ☐ Most Days ☐ Weekends ☐ Seldom ☐ Never

What internet sites, if any, do you read for news and information?

43. What television shows do you regularly watch? SEMPSON

What radio stations/programs do you presently listen to? 95.5X

44. Which television stations do you watch for local and state news? CHANNEL 8

Which radio stations do you listen to for local and state news? _____

45. Do you, or any member of your immediate family or household, have any educational training, professional or volunteer employment in the following fields? (Check all that apply)

Self

Family

Medicine (including nursing, EMT) ☐ ☐

Psychology, Counseling, Mental Health ☐ ☐

Criminal Justice, Government ☐ ☐

Political Science, Police Sciences, Sociology ☐ ☐

Forensic Sciences, Pathology ☐ ☐

Biology, Chemistry ☐ ☐

Religion, Philosophy, Ethics ☐ ☐

Photography, Videography ☐ ☐

Security/Investigative Services ☐ ☐

Social Work ☐ ☐

Briefly describe the relationship to you and the area of work of the person(s) for any of the above categories you have checked: _____

46. Have you ever had a bumper sticker on your car? ☐ yes ☒ no
If yes, what did it say:
- _____

47. What is your opinion, if any, about the death penalty?

WPA

49. Have you, or any member of your immediate family or household, ever belonged to any group or organization that is either in favor or opposed to the death penalty, or attended a rally, handed out leaflets, signed petitions, lobbied legislators, campaigned on the death penalty issue, or traveled to the site of a scheduled execution? ☐ yes ☒ no
If yes, please explain:
- _____

50. Is there other information which you believe might be important for the Court and attorneys to know? ☐ yes ☒ no
If yes, please explain:
- _____





JUROR INFORMATION SECTION
(PLEASE PRINT OR TYPE CLEARLY.)

BEGINNING WEEK
OF:

04-20-2009

JUROR
NUMBER:

228

4491

CITY, COUNTY, STATE OF BIRTH COSHOCTON, OHIO		AGE 62	DATE OF BIRTH	# OF CHILDREN 0	MARRIED ☒	SINGLE ☐	WIDOWED ☐	DIVORCED ☐
YOUR OCCUPATION RENTAL MANAGER		PRESENT OR FORMER EMPLOYER SELF						YEARS 30
LEVEL OF FORMAL EDUCATION COMPLETED BA		NAME OF SPOUSE KATHERINE NICKLAUS						
SPOUSE'S OCCUPATION ARTISAN		SPOUSE'S PRESENT OR FORMER EMPLOYER SELF						YEARS 5
HAVE YOU EVER SERVED ON A ☒ CIVIL JURY, OR ☐ CRIMINAL JURY? IF SO, WHEN? ABOUT 20 YRS. AGO		HAVE YOU EVER BEEN A PARTY TO A CIVIL LAWSUIT? ☐ YES ☒ NO						
		HAVE YOU EVER BEEN CONVICTED OF A CRIME (OTHER THAN A MINOR TRAFFIC OFFENSE)? ☐ YES ☒ NO						
NAME AND/OR ADDRESS CORRECTION: If the information below is incorrect, please write in the correct information in the space provided to the left.								

NICKLAUS JAMES F
POB 866
FOLLY BEACH, SC 29439

gray pony-tail
gray goatee
Hawaiian shirt

PLEASE PRINT YOUR ANSWERS IN
BLUE OR BLACK INK ONLY.

"wld not K til heard evid"

- named as mitigator - women? "sitn ethic" -

Please answer all of the questions as completely and honestly as you can. You may be questioned in Court, but your answers to these questions entered herein will speed the process.

Please do not assume anything from these questions. The fact that any one or all of them are being asked does not necessarily have anything to do with the evidence you will hear. As you answer the questions, please keep in mind:

As you answer the questions, please keep in mind that there are no “right” or “wrong” answers. Do not assume that any of your answers will qualify you or disqualify you from serving on this

228

JAMES F. NICKLAUS

Date of Birth:

Month

Day Year

Address: PO BOX 866

FOLLY BEACH, SC, 29439

What is Your Race ? : W

Do you: (check one) ☐ Rent ☒ Own ☐ Live with other family member/friends

What community or area do you live in? FOLLY BEACH

How long have you lived in Charleston County? 30 YRS

Have you lived outside of Charleston County within the last 10 years? NO

If so: Where:

When:

3. What is your marital status? (Check all that apply)

{ } Never married {X} Married (how long?) 36 YRS { } Divorced

☐ Separated☐ Widow/Widower

4. If married, is your spouse: (Check all that apply)

☐ Currently Employed☐ Unemployed☐ Homemaker☒ Retired☐ Student5. Name of Spouse: KATHERINE NICKLAUS

6. Employer of Spouse: _____

7. Educational level of Spouse: BFA8. What kind of work does your Spouse do? ARTIST9. If you have children, list the number, ages and gender: N/A

10. What are (or were) your parents' primary occupations?

Mother: HOUSEWIFEFather: SALESMAN

11. Are you: (Check all that apply)

(SELF)

☒ Currently Employed☐ Unemployed☐ Homemaker☐ Retired☐ Student☐ Disabled12. Name of your employer: SELFAddress: FOLLY BEACHHow long have you worked there? 30 YRS

13. Please give a description of work you do at your job:

MAINTAIN/MANAGE/RENT PROPERTY I OWN ON FOLLY BEACH

Do you (or did you) have a second job?

☐ yes☒ no

If yes, please explain:

14. Are you the primary wage earner for your family?

☒ yes☐ noAre you a salaried or hourly employee? N/A☐ salaried☐ hourly

15. Please list any other jobs, occupations, and employers you have held in the last 10 years:

(SELF)

16. Have any of your jobs involved supervisory responsibilities? ☒ yes { } no

Explain: YES, MYSELF

17. Please name the schools you have attended, their locations, and the grade level completed:

Grade School: CLINTONVILLE (OHIO)

Junior High School: WHETSTONE (OHIO)

High School: WHETSTONE (OHIO)

18. If you attended college, what school or university? COLUMBUS COLLEGE OF ART & DESIGN (OHIO)

Major Subject: FINE ART Minor Subject: _____

Did you graduate? ☒ yes { } no

What degree(s) did you receive? BFA

19. If you attended graduate school after college, what was your:

Major Subject: _____ Minor Subject: _____

What university did you attend? _____

What degree(s) did you receive? _____

20. What type of training, if any, have you received beyond high school?

COLLEGE - BFA

21. If you were in the service (including National Guard or Reserves), please state:

Branch: USNR Highest Rank: SN

Occupational Specialty: BOATSWAIN MATE Dates of Service: '62-67

Type of Discharge: HONORABLE

Please describe combat experience, if any: VIETNAM

22. Are you a member of any church, temple, or other religious organization? { } yes {X} no

If so, what is the name and location? _____

23. What activities, if any, are you involved with at present with your church, temple, or religious organization?

24. What societies, unions, professional associations, volunteer groups, civic clubs, or other organizations have you or any family members joined?

FOLLY BEACH CIVIC CLUB

FOLLY BEACH ARTS + CRAFTS GUILD

Are you/they presently a member? {X} yes { } no

25. Do you know any of the following attorneys or have you, or any family member or close personal friend, been represented by any of them? NO

___ Solicitor Scarlett Wilson

___ Deputy Solicitor Bruce DuRant

___ Attorney C. Andrew Carroll, of the Joye Law Firm

___ Attorney Jeffrey P. Bloom, of Columbia.

If you checked yes, please explain:

26. Have you ever served as a juror, witness or a party in a law suit? { } yes {X} no

If yes, which one? Juror _____ Witness _____ Party to Law Suit _____

In which court: { } State Court How many times? _____
 { } Federal Court How many times? _____
 { } Military Court How many times? _____

What type(s) of civil case(s)? _____

What type(s) of criminal case(s)? _____

Have you ever served on a grand jury? { } yes {X} no
 If yes, how many times? _____

27. Have you, or any family members or anyone close to you, ever studied law? { } yes {X} no
 If yes, please describe:

28. Have you, or any family or household members, ever been employed by any organization, or connected with any organization that represents or assists criminal defendants, or crime victims? If so, where and when, and please explain? No

29. Have you, or any family or household members, been employed by law enforcement or applied for work with law enforcement? { } yes {X} no
 If yes, please state where and when: _____

30. Have you, or any family or household members, ever received any training in law enforcement? { } yes {X} no
 If yes, please describe the training, job title, and your relationship: _____

31. Have you, or any family or household members, ever volunteered your services to any law enforcement agency? { } yes {X} no
 If yes, please describe: _____

32. Have you, or any family or household members, now or ever been connected with a member of a Solicitor or Prosecutor's Office, by blood or marriage, or as a close friend? { } yes {X} no
 If yes, please state who, which office, position held, and dates: _____

33. Do you personally know anyone in the Solicitor's Office or Public Defender Office? ☒ NO
34. Have you, or any family or household members, ever had the occasion to use the services of any state or federal prosecutor's office?
☐ yes ☒ no If yes, please describe:

35. Have you, or any member of your immediate family or household, ever been a victim of a crime?
☐ yes ☒ no If yes, please describe:

36. Was anyone arrested for any of the above incidents? ☐ yes ☐ no N/A
 What, if anything, happened to the person charged after the arrest? N/A

- If there was a trial, did you testify? ☐ yes ☐ no N/A
37. Have you known anyone who died as the result of a violent act? ☐ yes ☒ no
38. Have you, or any family or household member, ever been a witness to a crime?
☐ yes ☒ no If yes, please describe:

39. What crime? _____
 When? _____
 Result? _____
40. What are your main source(s) of news and information? (Check all that apply)
☒ Television ☒ Newspaper ☐ News Magazines

☒ Conservation with others ☒ Radio
☐ Internet ☐ Other _____

41. Do you presently have a magazine subscription? { } yes ☒ no
 If yes, please identify: _____

42. Which newspapers do you read? (Check all that apply)
☒ USA Today ☒ The Post and Courier { } Other

List all other newspapers and magazines that you presently read: _____

How often do you read the newspaper? WHEN SOMETHING "IMPORTANT" HAPPENS
☐ Daily ☐ Most Days ☐ Weekends ☐ Seldom ☐ Never

What internet sites, if any, do you read for news and information?

43. What television shows do you regularly watch? NEWS/WEATHER

What radio stations/programs do you presently listen to? _____

44. Which television stations do you watch for local and state news? LOCAL, 2, 4 & 5, PBS

Which radio stations do you listen to for local and state news? _____

45. Do you, or any member of your immediate family or household, have any educational training* professional or volunteer employment in the following fields? (Check all that apply)

*SEE NEXT PAGE

Self

Family

Medicine (including nursing, EMT)
 Psychology, Counseling, Mental Health
 Criminal Justice, Government
 Political Science, Police Sciences, Sociology
 Forensic Sciences, Pathology
 Biology, Chemistry
 Religion, Philosophy, Ethics
 Photography, Videography
 Security/Investigative Services
 Social Work

SELF

FAMILY

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- * Briefly describe the relationship to you and the area of work of the person(s) for any of the above categories you have checked: I HAVE A COLLEGE DEGREE, MY WIFE HAS A COLLEGE DEGREE, MY SISTER HAS A COLLEGE DEGREE, MY FATHER HAD A COLLEGE DEGREE, MY MOTHER HAD A MASTERS DEGREE IN COUNSELING, SO, YOU COULD SAY, "ALL" TO "ALL OF THE ABOVE"

46. Have you ever had a bumper sticker on your car? { } yes { } no
 If yes, what did it say: I REALIZE THIS IS JUST A "ROUND-ABOUT" WAY OF ASKING ME MY POLITICAL + SOCIAL VIEWS, I DON'T USE MY BUMPER TO EXPRESS "CONTROVERSIAL VIEWS" BUT I DO "SUPPORT OUR TROOPS" (I'M A VET) AND "GREEN IS GOOD."

47. What is your opinion, if any, about the death penalty?

SORRY, I CAN'T ANSWER THIS QUESTION IN THIS "SIMPLISTIC" FORM.

49. Have you, or any member of your immediate family or household, ever belonged to any group or organization that is either in favor or opposed to the death penalty, or attended a rally, handed out leaflets, signed petitions, lobbied legislators, campaigned on the death penalty issue, or traveled to the site of a scheduled execution? { } yes {X} no
 If yes, please explain:

50. Is there other information which you believe might be important for the Court and attorneys to know? { } yes { } no

If yes, please explain:

I WON'T KNOW THE ANSWER TO THIS QUESTION UNTIL I'M ASKED A MORE SPECIFIC QUESTION ON A "CASE-BY-CASE" "NEED TO KNOW" BASIS.

4500

STATE OF SOUTH CAROLINA,

COURT OF COMMON PLEAS

NY 1017

Panel 2

CP-10-

COUNTY OF CHARLESTON

PLAINTIFF

VS

DEFENDANT

11:15

		JUROR'S NUMBER	STRIKES		
			PLTF.	DEF.	
1	④ Snode Heyward ② 26 B/M	133			1
2	⑤ Lauri Newkirk Paggi ④ 46 W/F	227			2
3		~~315~~			3
4	~~⑥ Alexandra Howard ⑥ 47 B/F~~	~~372~~			4
5	⑥ Charles High ④ 29 W/M	134			5
6		~~316~~			6
7	⑦ Janet Bergen ② + 52 W/F	19			7
8	~~⑧ Janette Singleton ① 57 B/F~~	~~280~~			8
9					9
10					10
11					11
12					12
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14					14
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16					16
17					17
18					18
19					19
20					20
ALTERNATE				ALTERNATE	
21					21
22					22
23					23

(st OBJ)

Q

X

Q

Q

OBJ. 1ST A 8/14

* When calling your strikes, please call number in far left column.
Numbers in Juror's Number Column is the number on the venire.