

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

RECEIVED
Dec 29 2022
SC Court of Appeals

Appeal from Oconee County

Honorable R. Scott Sprouse, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

RANDY LEE CANTRELL,

APPELLANT

APPELLATE CASE NO. 2021-001144

RECORD ON APPEAL

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INDEX

INDEX	i
TRIAL TRANSCRIPT DATED AUGUST 23-24, 2021	1
MOTION TO RELIEVE DEFENSE COUNSEL.....	23
COURT’S RULING DENYING MOTION	25
DEFENSE MOTION IN <i>LIMINE</i> AND TO SUPPRESS	25
ARGUMENT BY THE STATE	26
REPLY BY DEFENSE COUNSEL	26
CONTINUED ARGUMENT BY THE STATE.....	27
COURT DEFERS RULING PENDING PROFFER	28
TESTIMONY	
JUAN HERNANDEZ (<i>IN-CAMERA</i>)	
Direct Examination by Ms. Blundy.....	32
Cross-Examination by Ms. Porter	44
Redirect Examination by Ms. Blundy	51
ZACHARY McCALL (<i>IN-CAMERA</i>)	
Direct Examination by Ms. Blundy.....	53
Cross-Examination by Ms. Porter	60
DEFENSE RENEWAL OF MOTION IN <i>LIMINE</i> AND TO SUPPRESS.....	64
ARGUMENT BY THE STATE	64
COURT’S RULING DENYING MOTION IN <i>LIMINE</i> AND TO SUPPRESSSS	66
COURT’S RULING TO ALLOW DEFENDANT TO BE TRIED IN <i>ABSENTIA</i>	73
STIPULATIONS REGARDING VIDEO EVIDENCE	73
DEFENSE MOTION TO SUPPRESS REASON FOR DEFENDANT ABSENCE.....	74
COURT’S RULING GRANTING MOTION	74
OPENING STATEMENT BY MS. BLUNDY	75

OPENING STATEMENT BY MS. PORTER.....	78
TESTIMONY	
ZACHARY McCALL	
Direct Examination by Ms. Blundy.....	82
Cross-Examination by Ms. Porter	100
Redirect Examination by Ms. Blundy	108
BRENDAN CARMICHAEL	
Direct Examination by Ms. Blundy.....	113
Cross-Examination by Ms. Porter	118
JUAN HERNANDEZ	
Direct Examination by Ms. Blundy.....	119
DEFENSE OBJECTION TO DRUG DISTRIBUTION TESTIMONY	136
ARGUMENT BY MS. BLUNDY.....	137
TESTIMONY	
JUAN HERNANDEZ (<i>IN-CAMERA</i>)	
Direct Examination by Ms. Blundy.....	138
COURT’S RULING OVERRULING DEFENSE OBJECTION	138
TESTIMONY	
JUAN HERNANDEZ	
Continued Direct Examination by Ms. Blundy.....	139
Cross-Examination by Ms. Porter.....	155
Redirect Examination by Ms. Blundy.....	180
CHARLIE SMITH	
Direct Examination by Ms. Blundy	186
Cross-Examination by Ms. Porter.....	194
MEREDITH LANFORD	
Direct Examination by Ms. Blundy	195
Cross-Examination by Ms. Porter.....	209
STATE RESTS	210
DEFENSE MOTION FOR DIRECTED VERDICT	210

ARGUMENT BY MS. BLUNDY	210
COURT’S RULING DENYING MOTION FOR DIRECTED VERDICT	212
DEFENSE RESTS	218
CLOSING ARGUMENT BY MS. BLUNDY.....	219
CLOSING ARGUMENT BY MS. PORTER.....	228
VERDICT	251
SENTENCING HEARING TRANSCRIPT DATED SEPTEMBER 23, 2021	255
READING OF THE SEALED SENTENCE	258
INDICTMENT.....	261
SENTENCE SHEET.....	263
ARREST WARRANT	265
CERTIFICATE OF COUNSEL	266
[STATE’S EXHIBITS #5 (McCALL BODY CAM), #7 (HERNANDEZ BODY CAM), #9- #11 (PIPES PHOTOS), #12 (PHOTO OF SCALE), #12-#14 (PHOTOS OF OIL BURNER), #15-#16 (EVIDENCE PHOTOS), AND #24 (LABORATORY REPORT) ARE ON FILE WITH THIS COURT]	

The Honorable R. Scott Sprouse

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2
3
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5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

INDEX

WITNESS:

PAGE:

RANDALL LEE CANTRELL	
Questioning by The Court	23
JUAN HERNANDEZ	
Proffered Direct Examination By Ms. Blundy	32
Proffered Cross Examination By Ms. Porter	44
Proffered Redirect Exam. By Ms. Blundy	51
ZACHARY MCCALL	
Proffered Direct Examination By Ms. Blundy	53
Proffered Cross Examination By Ms. Porter	60
ZACHARY MCCALL	
Direct Examination By Ms. Blundy	82
Cross Examination By Ms. Porter	100
Redirect Examination By Ms. Blundy	108
BRENDEN CARMICHAEL	
Direct Examination By Ms. Blundy	113
Cross Examination By Ms. Porter	118
JUAN HERNANDEZ	
Direct Examination By Ms. Blundy	119
Proffered Direct Examination By Ms. Blundy	138
Continued Direct Examination By Ms. Blundy	139
Cross Examination By Ms. Porter	156
Redirect Examination By Ms. Blundy	180
CHARLIE SMITH	
Direct Examination By Ms. Blundy	186
Cross Examination By Ms. Porter	194
MEREDITH LANFORD	
Direct Examination By Ms. Blundy	195
Cross Examination By Ms. Porter	209

1 INDEX AS TO EXHIBITS

2

3 Ex No. Description Marked: Received:

4 Court's Exhibits:

5 1 foreperson name 28 28

6 State's Exhibits:

7 1-4 K9 certificates 87 87

5 McCall body cam 95 95

8 6 impound report 116 116

9-11 pipes photos 128 128

9 12 photo of scale 131 131

13-14 photos of oil burner 133 133

10 15-16 evidence photos 135 135

17 drug analysis request 140 140

11 19 0028047 receipt 145 145

20 Form B 145

12 7 Hernandez body cam 148 148

21 Form C 190 190

13 22 6-3-19 Form C 192 192

23 Lab chain of custody 201 201

14 18 BEST bag 204 204

24 laboratory report 208 208

15

16

17

18

19

20

21

22

23

24

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JURY SELECTION

1 PROCEEDINGS

2 JURY SELECTION

3 THE COURT: Okay. Ladies and gentlemen, we are
4 ready to draw the jury for the first case. Let me
5 get the solicitor to call the first case.

6 MS. BLUNDY: Thank you, Your Honor. May it
7 please the Court. We are here on the case of Randy
8 Lee Cantrell. The charge is possession of
9 methamphetamine. The indictment number is
10 2019GS3701238.

11 THE COURT: Ladies and gentlemen, as you heard,
12 this is the case of the State versus Randy Lee
13 Cantrell. This is indictment 2019GS3701238. Mr.
14 Cantrell has been charged with possession of
15 methamphetamine. Ladies and gentlemen, the
16 indictment is simply the charging document by which
17 this case is brought to court. It does not
18 constitute evidence of the allegations.

19 Mr. Cantrell has entered a plea of not
20 guilty to this charge; therefore, that puts the
21 burden on the State to prove him guilty beyond
22 a reasonable doubt. If you are called to serve
23 on this jury, it'll be your job as a jury to
24 determine whether or not the State can prove
25 its case beyond a reasonable doubt.

JURY SELECTION

1 Now, ladies and gentlemen, I know that I
2 asked you a whole bunch of questions a while
3 ago to determine your qualifications. I'm
4 going to ask you some more. These are not to
5 pry into your private lives, but to determine
6 the fairness of each individual juror. My job
7 is to ensure that both the State and the
8 Defendant receive a fair and impartial jury to
9 hear the facts of this case.

10 Let me remind you that you are already
11 under oath. The clerk has sworn you, so we
12 have to have accurate answers to the questions
13 that I ask you. So, the first order of
14 business, let me have each attorney introduce
15 themselves, their clients, or any persons who
16 may be seated at the table during the
17 prosecution or defense of the case.

18 MS. BLUNDY: Good morning. My name is Beth
19 Blundy, and I am an assistant solicitor under your
20 represented solicitor that is elected, Mr. David
21 Wagner.

22 MS. PORTER: Good morning. My name is Kayla
23 Porter, I am a full-time public defender here in
24 Oconee County. My client is Randy Cantrell. If you
25 can stand and face the jury.

JURY SELECTION

1 (Defendant stands.)

2 THE COURT: Is there any member of the jury
3 panel related by blood or marriage or has a close,
4 personal, or social relationship with either a party
5 or one of the attorneys involved in the case? If so,
6 please stand.

7 (No response.)

8 THE COURT: There are none. Any member of the
9 jury pool ever been represented by one of these
10 attorneys or law firm that they may have been a part
11 of or had one of these attorneys represent someone
12 against you in court. Either/or. If so, please
13 stand.

14 (No response.)

15 THE COURT: There are none. Now, ladies and
16 gentlemen, I'm going to read to you the list of
17 potential witnesses that the parties have provided to
18 the Court. Listen very carefully to these names.
19 Meredith Lanford, Anderson/Oconee lab. Officer Juan
20 Hernandez. Corporal Zach McCall. Corporal Brenden
21 Carmichael. Deputy Charlie Smith. Marie Wearing.
22 And Barbara Gaines. Is any member of the jury pool
23 related by blood or marriage or has a close, personal
24 relationship with any of these potential witnesses?
25 If so, please stand.

JURY SELECTION

1 (No response.)

2 THE COURT: There are none. Is there any member
3 of the jury pool that is so opposed to drug use that
4 they do not feel that they could be impartial or fair
5 as a juror in a case involving drugs? If so, please
6 stand.

7 (No response.)

8 THE COURT: There are none. Any member of the
9 jury pool been a victim of a crime or had a member of
10 their family been a victim of a crime perpetuated as
11 a result of illegal drugs? If so, please stand.

12 I'll come forward. Yes, ma'am.

13 THE JUROR: Nine five. Barbara Leroy.

14 THE COURT: And Ms. Leroy, what --

15 THE JUROR: The case that I was talking about
16 earlier and everything, the one where he had beat him
17 over meth and everything. Beat somebody. And a
18 boyfriend of mine done it.

19 THE COURT: Okay. So, that is currently under
20 investigation?

21 THE JUROR: Yes, sir.

22 THE COURT: Okay, all right. I am going to
23 excuse you from this case. All right. Thank you,
24 but you may retake your seat. Just excused for this
25 case.

JURY SELECTION

1 Ladies and gentlemen, this case is alleged
2 to have occurred on April the 6th, 2019 in
3 Oconee County. Does any member of the jury
4 pool have any prior knowledge from any source
5 about the facts of this case? If so, please
6 stand.

7 (No response.)

8 THE COURT: There are none. Does any member of
9 the jury panel know of any other reason why he or she
10 could not be fair and impartial if called to serve as
11 a juror? If so, please stand.

12 (No response.)

13 THE COURT: There are none. Any further
14 submissions from the State?

15 MS. BLUNDY: Nothing from the State, Your Honor.

16 THE COURT: Any further submissions from the
17 Defense?

18 MS. PORTER: None, Your Honor.

19 THE COURT: All right. Madam Clerk. Ladies and
20 gentlemen, at this stage the computer takes over.
21 Show them the hopper. I am dating myself, but when I
22 was a young lawyer and I had to try cases across the
23 parking lot in the old courtroom we used the hopper.
24 The clerk pulled the numbers out of the hopper. Now
25 the computer does everything for you. We keep that

JURY SELECTION

1 just so, you know, you can see where we have been.

2 (Pause.)

3 THE CLERK: Ladies and gentlemen, as I call your
4 name, if you would come forward, you will bring your
5 personal belongings, you will step through the gate,
6 you will come to this bar, and you will turn and face
7 the gallery.

8 Number 149, Ian Rodelo.

9 THE COURT: What says the State?

10 MS. BLUNDY: Please seat the juror Mr. Rodelo.

11 THE COURT: What says the defense?

12 MS. PORTER: Please seat the juror.

13 THE COURT: Sir, you may have a seat in the jury
14 box.

15 Number 130, April Niedzwiedz. What says
16 the State?

17 MS. BLUNDY: Please seat Ms. Niedzwiedz.

18 THE COURT: What says the Defense?

19 MS. PORTER: Please excuse the juror.

20 THE COURT: Ma'am, you have been excused from
21 this case. You may be seated.

22 Number 128, Teresa Nichols. What says the
23 State?

24 MS. BLUNDY: Please seat Ms. Nichols.

25 THE COURT: What says the Defense?

JURY SELECTION

1 MS. PORTER: Please seat the juror.

2 THE CLERK: Ma'am, if you would, please take a
3 seat in the jury box.

4 Number 103, Tommy Mcalister. What says
5 the State?

6 MS. BLUNDY: Please seat Mr. Mcalister.

7 THE COURT: What says the Defense?

8 MS. PORTER: Please seat the juror.

9 THE CLERK: Sir, if you would, please take a
10 seat in the jury box.

11 Number 66, Megan Hall. What says the
12 State?

13 MS. BLUNDY: Please seat Ms. Hall.

14 THE CLERK: What says the Defense?

15 MS. PORTER: Please excuse the juror.

16 THE CLERK: Ma'am, you have been excused from
17 this case. You may be seated.

18 Number 32, Crystal Childress. What says
19 the State?

20 MS. BLUNDY: Please excuse Ms. Childress.

21 THE COURT: Ma'am, you have been excused from
22 this case. You may be seated.

23 Number 15, Joyce Beatty. What says the
24 State?

25 MS. BLUNDY: Please seat Ms. Beatty.

JURY SELECTION

1 THE CLERK: What says the Defense?

2 MS. PORTER: Please seat the juror.

3 THE CLERK: Ma'am, if you would, please take a
4 seat in the jury box.

5 Number 161, Sharon Smith. What says the
6 State?

7 MS. BLUNDY: Please seat Ms. Smith.

8 THE COURT: What says the Defense?

9 MS. PORTER: Please excuse the juror.

10 THE CLERK: Ma'am, you have been excused from
11 this case. You may be seated.

12 Number 101, Greg Malphrus. What says the
13 State?

14 MS. BLUNDY: Please seat Mr. Malphrus.

15 THE CLERK: What says the Defense?

16 MS. PORTER: Please seat the juror.

17 THE CLERK: Sir, if you would, please take a
18 seat in the jury box.

19 Number 176, Amy Turner. What says the
20 State?

21 MS. BLUNDY: Please seat Ms. Turner.

22 THE CLERK: What says the Defense?

23 MS. PORTER: Please seat the juror.

24 THE CLERK: Ma'am, if you would, please take a
25 seat in the jury box.

JURY SELECTION

1 Number 62, Crystal Gustin. What says the
2 State?

3 MS. BLUNDY: Please seat Ms. Gustin.

4 THE CLERK: What says the Defense?

5 MS. PORTER: Please seat the juror.

6 THE CLERK: Ma'am, if you would, please take a
7 seat in the jury box.

8 Number 160, Melissa Smith. What says the
9 State?

10 MS. BLUNDY: Please seat Ms. Smith.

11 THE CLERK: What says the Defense?

12 MS. PORTER: Please seat the juror.

13 THE CLERK: Ma'am, if you would, please take a
14 seat in the jury box.

15 Number 79, Jamie Ingham. What says the
16 State?

17 MS. BLUNDY: Please seat Ms. Ingham.

18 THE CLERK: What says the Defense?

19 MS. PORTER: Please seat the juror.

20 THE CLERK: Ma'am, if you would, please take a
21 seat in the jury box.

22 Number 159, James Smith. What says the
23 State?

24 MS. BLUNDY: Please seat Mr. Smith.

25 THE CLERK: What says the Defense?

JURY SELECTION

1 MS. PORTER: Please seat the juror.

2 THE CLERK: Sir, if you would, please take a
3 seat in the jury box.

4 Number 89, Jennifer Land. What says the
5 State?

6 MS. BLUNDY: Please seat Ms. Land.

7 THE CLERK: What says the Defense?

8 MS. PORTER: Please seat the juror.

9 THE CLERK: Ma'am, if you would, please take a
10 seat in the jury box.

11 Number 124, Laura Moore. What says the
12 State?

13 MS. BLUNDY: Please seat Ms. Moore.

14 THE CLERK: What says the Defense?

15 MS. PORTER: Please excuse the juror.

16 THE CLERK: Ma'am, you have been excused from
17 this case. You may be seated.

18 Number 59, Thomas Gibson. What says the
19 State?

20 MS. BLUNDY: Please seat Mr. Gibson.

21 THE CLERK: What says the Defense?

22 MS. PORTER: Please excuse the juror.

23 THE CLERK: Sir, you have been excused from this
24 case. You may be seated.

25 Number 30, Carlos Chappell. What says the

JURY SELECTION

1 State?

2 MS. BLUNDY: Please seat Mr. Chappell.

3 THE CLERK: What says the Defense for cause?

4 MS. PORTER: Please seat the juror.

5 THE CLERK: Sir, if you would, please take a
6 seat in the jury box.

7 We will have one alternate.

8 Number 119, John Miller. What says the
9 State?

10 MS. BLUNDY: Please seat Mr. Miller.

11 THE CLERK: What says the Defense?

12 MS. PORTER: Please excuse the juror.

13 THE CLERK: Sir, you have been excused from this
14 case. You may be seated.

15 Number 27, Mary Carmody. What says the
16 State?

17 MS. BLUNDY: Please excuse Ms. Carmody.

18 THE CLERK: Ma'am, you have been excused from
19 this case. You may be seated.

20 Number 164, Katherine Still. What says
21 the State for cause?

22 MS. BLUNDY: Please seat the juror.

23 THE CLERK: What says the Defense?

24 MS. PORTER: Please seat the juror.

25 THE CLERK: Ma'am, if you would, please take a

JURY SELECTION

1 seat in the jury box.

2 THE COURT: Any motions or exceptions to the
3 selection of the jury from the State?

4 MS. BLUNDY: Nothing from the State, Your Honor.

5 THE COURT: Are there any motions or exceptions
6 to the selection of the jury from the Defense?

7 MS. PORTER: None, Your Honor.

8 THE COURT: All right. Madam Clerk, if you
9 would please swear our jurors.

10 THE CLERK: Yes, sir. Ladies and gentlemen, if
11 you would please stand. Raise your right-hand. You
12 shall well and truly try and true deliverance make
13 between the State of South Carolina and the Defendant
14 and you shall have in charge and a true verdict give
15 according to the law and evidence. I will?

16 (All jurors state, "I will.")

17 THE CLERK: Please be seated. Let the record
18 reflect that all members of the jury have accepted
19 their oath.

20 THE COURT: Okay. Ladies and gentlemen who
21 remain in the pool, that will conclude your service
22 for today. The Clerk has given you -- is there a
23 number on the sheet that you gave them?

24 THE CLERK: Yes, sir. There is a number at the
25 top of your welcome letter that you were given as you

OPENING COMMENTS BY THE COURT

1 checked in. That is our jury information line.

2 THE COURT: Call that number after 6:00 tonight
3 for instructions for tomorrow. So, that will be your
4 source of communication with the clerk's office.
5 Thank you for your attendance this morning. You are
6 excused for today.

7 (Pause.)

8 OPENING COMMENTS BY THE COURT

9 THE COURT: Okay. Ladies and gentlemen, before
10 we start, let me explain our roles in this trial. I
11 am the judge of the law. You are the judges of the
12 facts. You will apply the law as I give it to you to
13 the facts of the case. You will determine the facts
14 by evaluating the evidence that is presented during
15 the trial. Evidence is the sworn testimony from the
16 witnesses and the exhibits that are entered into
17 evidence. You and you alone determine the
18 credibility of witnesses and how much weight to give
19 their testimony.

20 Each attorney will have the opportunity to
21 give an opening statement to outline their
22 position and the evidence that she or he
23 intends to present to support their position.
24 The attorneys will also have the opportunity to
25 make closing arguments to you at the end.

OPENING COMMENTS BY THE COURT

1 Keep in mind that the statements of the
2 attorneys are not evidence, but merely tools
3 that they use to help you evaluate the evidence
4 in a case.

5 The State has the burden of proof in this
6 trial. It must prove beyond a reasonable doubt
7 that the Defendant is guilty of the offense
8 charged. If the State fails to meet that
9 burden, then you must find the Defendant not
10 guilty. On the other hand, if the State does
11 prove its case beyond a reasonable doubt, then
12 you must find the Defendant guilty.

13 The Defendant is presumed innocent and has
14 no burden of proof in this case. I am going to
15 talk to you at length later about this, but I
16 am going to go ahead and give you a preliminary
17 definition. A reasonable doubt is defined as a
18 doubt that would cause a reasonable person to
19 hesitate to act.

20 Now, a few more things. This is not an
21 endurance contest. We will take breaks as we
22 go along. If you get in distress and you need
23 a break, let the bailiffs know and we will do
24 our best to accommodate you. We are getting
25 ready to take our first break. But any time

OPENING COMMENTS BY THE COURT

1 that you need a break, just let the bailiffs
2 know and we will do our best.

3 There are three things that you are
4 prohibited from doing when you leave this
5 courtroom. When you are in the jury room and
6 when you go to lunch, you can't do these
7 things. Now, listen very carefully. The first
8 is, there should be no independent
9 investigation. You are not allowed to do
10 research on the law or the facts of the case.
11 In this the era of smart phones and internet
12 access, it's very easy for someone to try to
13 research the law and the facts. You are
14 strictly prohibited from doing that.

15 Along the same lines, I get this question
16 a lot because this is -- there is some
17 differences in the way that judges operate. I
18 take the traditional view. I do not allow
19 jurors to take notes during the proceedings. I
20 know some other judges do. I do not allow that
21 for this reason: Some people are good note
22 takers and others are not good note takers.
23 Your deliberations at the end should not be a
24 contest between who -- between one juror who
25 takes good notes and who does not.

OPENING COMMENTS BY THE COURT

1 Furthermore, you are to evaluate the
2 witnesses in a case. Sometimes the demeanor or
3 appearance of a witness is important, and that
4 is something important for you to consider. If
5 your head is buried in a note pad you might
6 miss something in the case. So, that is my
7 rationale why I take the traditional view and
8 do not allow note taking.

9 The second thing that you are prohibited
10 from doing is talking to third parties about
11 the case. When you leave this courtroom, you
12 have -- there is a reason you have this juror
13 button on, it tells the public that you are
14 serving as a juror and they should not contact
15 you. These two attorneys if they see you in
16 the stairwell or outside, they are going to go
17 the other direction. They are not trying to be
18 rude to you, they just know that they can't
19 have any contact with you. If someone comes up
20 to you trying to talk about this case, you let
21 the bailiffs know and they will let me know and
22 I will tend to that. But you are strictly
23 prohibited from talking to third parties about
24 the case.

25 And the last thing that you are prohibited

OPENING COMMENTS BY THE COURT

1 from doing is deliberating amongst yourselves.
2 Deliberating means discussing the case when you
3 go into a break you can talk about anything
4 that you want to talk about as far as life or
5 sports or whatever, but you can't talk about
6 this case until I instruct you to do so at the
7 end. I will tell you when to begin your
8 deliberations.

9 Ladies and gentlemen, the reason for these
10 rules is that you are to base your decisions
11 solely on the evidence presented in the
12 courtroom, not outside influences, and you are
13 not to make your decision prematurely. You
14 should make your decision only after all of the
15 evidence is in. And that is to ensure that
16 both the State and the Defense receive a fair
17 trial with a fair and impartial jury.

18 Now, along the same lines, there may be
19 times in the case where one attorney objects to
20 a question or a piece of evidence or some other
21 issue, I have to make a ruling on that. That
22 should not be interpreted that the Court favors
23 one side or the other. Again, my job is to
24 make sure that both sides receive a fair trial
25 in accordance with the law.

MOTIONS

1 Along those same lines, you may have to be
2 taken to the jury room. We may have to take up
3 an issue of law outside of your presence. That
4 is not to hide things from you, but it is just
5 to ensure that both sides receive a fair trial.

6 Now, I am going to send you to the jury
7 room right now. You have one order of business
8 and that would be to elect a foreperson. This
9 will be the presiding juror over your
10 deliberations at the end. This will also be
11 the juror that communicates with the Court
12 should there be any problems or any issue that
13 arises that the Court should be aware of. Any
14 correspondence between the jury and the Court
15 should be in a form of a written note signed by
16 the foreperson. When you have elected a
17 foreperson, write that juror's name and number
18 on a sheet of paper and knock on the door and
19 let the bailiff know that you have that.

20 So, Madam Bailiff, would you take our jury
21 to the jury room.

22 (Jury exits the courtroom at 11:18 a.m.)

23 THE COURT: Okay. Any matters that we need to
24 take up while the jury is out?

25 MS. BLUNDY: Nothing from the State, Your Honor.

QUESTIONING OF RANDALL LEE CANTRELL

1 MS. PORTER: I do have a few motions, Your
2 Honor. However it was brought to my attention just
3 recently, my client would like to move to have me
4 relieved as his attorney. And that is his motion,
5 not mine.

6 THE COURT: Okay. Mr. Cantrell, if you will
7 raise your right-hand.

8 Thereupon,

9 RANDALL LEE CANTRELL
10 was called as a witness, having been first duly sworn,
11 was examined and testified as follows.

12 THE COURT: All right. Tell me what relief you
13 seek.

14 THE DEFENDANT: I just feel like she is -- she
15 should have done better, because of a comment that
16 was made. Like Friday when I talked to her she made
17 a comment like she has been waiting to do this case
18 and she's been wanting to take it to trial, a case
19 like this, to see if she could win. And I consider
20 that -- it's like my life is being played with right
21 there. And I really haven't had money, actually, to
22 get a lawyer all the way up until now. But I have a
23 law -- another attorney that I would like to get if
24 it pleases the Court to dismiss it.

25 THE COURT: Mr. Cantrell has discovery been

QUESTIONING OF RANDALL LEE CANTRELL

1 provided to you?

2 THE DEFENDANT: As far as I know.

3 THE COURT: Documents in your case?

4 THE DEFENDANT: As far -- there's a few --
5 there's a few technicalities they -- I believe if I
6 had a paid attorney that he could see more into it
7 than what is being seen.

8 MS. PORTER: I have shared the discovery with
9 him, Your Honor, on this case and other pending
10 cases.

11 I'll just respond to his comment. He
12 asked me what I thought about the merits of his
13 case. I told him that it was a residue case,
14 that that was a type of case that I had been
15 wanting to try, but that it was not my
16 decision, it was his life and his liberty on
17 the line. So, just to speak to that comment.

18 THE DEFENDANT: I'm a little bit scared, sir, to
19 be honest with you. I mean, I have never -- you
20 know, I have been charged with something that I
21 wasn't -- I mean, I had a substance there but it --

22 MS. PORTER: Don't talk about the facts.

23 THE COURT: Don't tell me anything about the
24 facts.

25 MS. PORTER: Okay. I'm kind of scared and

MOTIONS

1 nervous at the moment and I believe I might be a
2 little bit more safer if I talked or get with the
3 lawyer. I spoke to him one time and he seemed pretty
4 legit and everything. But I am just scared, man,
5 really, honestly. And I would rather just have a
6 paid attorney.

7 THE COURT: Mr. Cantrell, it's way late in the
8 proceedings to be going down that road. So, I am
9 going to deny your motion. Ms. Porter will continue
10 to represent you in this case. Okay. So, Ms.
11 Porter, what is your next motion?

12 MS. PORTER: Thank you, Your Honor. I have a
13 Motion in Limine. There were two items sent off to
14 the lab for testing in this matter. One was what is
15 described as a ceramic potpourri burner with
16 crystalline substance stuck to the bowl. The other
17 is described as a clear Ziplock bag containing a
18 glass pipe. No analysis was performed on that glass
19 pipe, and I would object to it being introduced into
20 evidence. I think it's more prejudicial than
21 probative under Rule 404.

22 So, I would ask that you, the Court,
23 suppress that and limit it from being
24 introduced into evidence. Again, there is no
25 analysis. We don't know if there was actually

MOTIONS

1 a substance in that pipe. So, I don't think
2 that it goes to the elements of possession. We
3 have no idea what was in that pipe. And I can
4 submit a copy of the lab report as an exhibit
5 if you would like. I just don't have a copy --
6 I have one copy.

7 THE COURT: All right. Ms. Blundy.

8 MS. BLUNDY: Your Honor, Defense is correct in
9 that there were two items, Items A1 and A2 on the lab
10 report. One was a potpourri burner with crystal like
11 substance stuck to the inside of the bowl. The
12 second was the pipe, which I believe officer
13 testimony will be that there was residue on the pipe.

14 Speaking with Meredith in the past,
15 specifically if she doesn't have enough to
16 reach a PWID weight, she will not test both
17 items. They save on testing costs that way in
18 some respect. If it doesn't meet a threshold
19 to knock it over a gram. I also believe that a
20 pipe, especially a methamphetamine pipe, which
21 we have in this case, is super relevant. And
22 for the jury to consider in a possession of
23 methamphetamine case.

24 MS. PORTER: I don't know if there is a
25 difference between a methamphetamine pipe or a pipe

MOTIONS

1 used to smoke marijuana or some other substance. And
2 Mr. Cantrell is not being charged with possession of
3 marijuana, possession of crack cocaine, any of that,
4 he's being charged with possession of meth. We don't
5 know what was in that pipe.

6 THE COURT: There are differences -- now, are
7 you objecting to both the pipe and the potpourri
8 burner?

9 MS. PORTER: No, Your Honor, I would submit that
10 the potpourri burner is properly in evidence, would
11 be properly in evidence. I just don't believe that
12 the pipe is.

13 THE COURT: Okay.

14 MS. BLUNDY: My other argument, Your Honor, is
15 that they were all submitted in the same backpack
16 when they went for testing, so all items remain as
17 one in one backpack. So, the drugs are in along with
18 the potpourri burner and the pipe.

19 THE COURT: All right. Well, you intend to
20 introduce this with the arresting officer's
21 testimony, or who do you intend to use to introduce
22 this?

23 MS. BLUNDY: Yes, I would start the chain with
24 the arresting officers and the officers in the chain
25 of custody. And ultimately admit it with Meredith,

COURT ADDRESSES THE JURY

1 the lab technician.

2 THE COURT: Okay. I don't have enough
3 information at this point to make a determination on
4 the motion. So I'll allow you to proffer the
5 testimony regarding the pipe, and we will revisit the
6 issue at that time.

7 MS. PORTER: No further motions from the
8 Defense, Your Honor.

9 THE COURT: All right. Well, I have been
10 informed that juror number 128 has been elected as
11 foreperson.

12 *(Whereupon, Court's Exhibit No(s). 1*
13 *marked for identification and received in*
14 *evidence.)*

15 All right. Let's get our jury.

16 Don't mention the pipe in opening
17 statements, not until you have proffered it.
18 Don't mention it in opening.

19 THE COURT: Counsel approach real quick.

20 (Off-the-record discussion held.)

21 (The jury enters the courtroom at 11:26
22 a.m.)

23 THE COURT: Okay. Ladies and gentlemen, in
24 conferring with the attorneys, we have a couple of
25 legal matters that we need to take up, and rather

COLLOQUY

1 than you sit back in the jury room for what could be
2 an extended period of time, I'll go ahead and send
3 you to an early lunch right now. It is a little
4 after 11:30, so be back in the jury room at 1:00 and
5 we will start the case back at 1.

6 So, remember your instructions, don't talk
7 to third parties. You haven't heard any
8 evidence yet, but don't try to deliberate or do
9 any research on the case. Everyone have a good
10 lunch and we will see you at 1.

11 THE BAILIFF: This way.

12 (The jury exits the courtroom at 11:31
13 a.m.)

14 (Lunch recess.)

15 THE COURT: Ms. Porter, do you have any update
16 on your client?

17 MS. PORTER: I have received an update from his
18 girlfriend. He hadn't been seen yet. He's still in
19 the waiting room.

20 THE COURT: So, he was not taken by ambulance,
21 he went on his own volition?

22 MS. PORTER: Yes, sir.

23 THE COURT: Okay.

24 MS. PORTER: And I have no objection to doing
25 the proffer without him here.

COLLOQUY

1 THE COURT: We will go ahead and do the proffer,
2 and then we will go from there.

3 MS. PORTER: I would ask that the other
4 witnesses be sequestered unless Ms. Blundy has an
5 objection to that.

6 MS. BLUNDY: I have no objection to that, Your
7 Honor.

8 THE COURT: Well, you are not going to go
9 through the entire chain of custody in the proffer,
10 are you? You are just going through the testimony
11 regarding the relevance of the evidence?

12 MS. BLUNDY: That will be my plan.

13 THE COURT: Right.

14 MS. PORTER: I will have two witnesses for that
15 though.

16 THE COURT: Okay.

17 MS. BLUNDY: We also -- maybe we need to do a
18 little bit on a Jackson v. Denno, just some
19 statements that were made after Miranda.

20 THE COURT: Well, any pretrial motions, let's go
21 ahead and deal with that. Go ahead and sequester the
22 witnesses.

23 MS. PORTER: I don't have a Jackson v. Denno
24 motion.

25 THE COURT: Okay. There is no -- okay.

PROFFERED DIRECT EXAMINATION OF J. HERNANDEZ BY MS.
BLUNDY

1 MS. BLUNDY: Well, if there is no objection
2 then -- because we kind of agreed to that portion of
3 the video with refine -- okay.

4 THE COURT: For the record, do you have the
5 specific statement that the Defendant made that is
6 not being contested?

7 MS. BLUNDY: I think Ms. Porter didn't have any
8 motions to suppress any of the statements. When we
9 went through the videos in and of themselves, there
10 was some dialogue between the officers about this
11 Defendant being on probation, about him being a
12 violent felon, which he's not, and the State is
13 agreeable to redact those from the video.

14 THE COURT: Okay. Okay. Is that correct, Ms.
15 Porter?

16 MS. PORTER: Yes, Your Honor.

17 THE COURT: All right. Well, call your first
18 witness.

19 MS. BLUNDY: Yes, we would like to call Juan
20 Hernandez to the stand.

21 THE COURT: Can you put the officer under oath?

22 Thereupon,

23 JUAN HERNANDEZ

24 was called as a witness, having been first duly sworn,
25 was examined and testified as follows:

PROFFERED DIRECT EXAMINATION OF J. HERNANDEZ BY MS.
BLUNDY

1 PROFFERED DIRECT EXAMINATION

2 BY MS. BLUNDY:

3 Q Officer Hernandez, where do you work?

4 A I currently work at Seneca Police
5 Department.

6 Q Where did you work before that?

7 A Walhalla Police Department.

8 Q How long did you work for Walhalla Police
9 Department?

10 A Approximately two and a half years.

11 Q And how long have you been with the Seneca
12 Police Department?

13 A Approximately three years.

14 Q Do you recall the date of April the 6th of
15 2019?

16 A Yes, ma'am.

17 Q And on that date, were you on duty?

18 A Yes, ma'am.

19 Q And which agency were you working for at
20 the time of this incident?

21 A City of Walhalla.

22 Q And do you recall coming into contact with
23 the Defendant, Randy Lee Cantrell?

24 A Yes, ma'am.

25 Q How was it that you came into contact with

PROFFERED DIRECT EXAMINATION OF J. HERNANDEZ BY MS.
BLUNDY

1 him?

2 A A traffic stop.

3 Q And do you recall what that traffic stop
4 was for?

5 A Yes, ma'am, it was a taillight.

6 Q And were you the only officer who pulled
7 him over, or were there other officers present at
8 the time that you pulled him over?

9 A There were other officers that assisted.

10 Q Okay. And when you pulled him over for
11 the -- I am sorry, did you say brake light?

12 A Yes, ma'am.

13 Q And you approached the vehicle, what
14 knowledge did you have regarding the Defendant's
15 driver's license?

16 A I have had previous encounters with the
17 Defendant. Not only from the jail, but also from
18 the roadway as well.

19 Q Okay. And did he say anything to you
20 regarding his driver's license?

21 A Yes, ma'am, he said he didn't have a
22 license.

23 Q Okay. And at that point did he
24 voluntarily tell you anything that may be in the
25 vehicle?

PROFFERED DIRECT EXAMINATION OF J. HERNANDEZ BY MS.
BLUNDY

1 A Yes, ma'am, he stated that he did have
2 some marijuana in the car.

3 Q Okay. So, at that point what was your
4 mindset as to whether or not you were going to
5 search the vehicle?

6 A As far as detaining him and attempting to
7 locate the narcotics.

8 Q But you were not alone, correct?

9 A No, ma'am.

10 Q Who was the other officer with you?

11 A Officer McCall. And I believe Officer
12 Carmichael. He was still in training, if I'm not
13 mistaken.

14 Q And Officer McCall, what type of officer
15 is he or was he at the time of this incident?

16 A He is a K9, K9 officer.

17 Q And was the K9 present at the time of this
18 traffic stop?

19 A Yes, ma'am.

20 Q In addition to the marijuana and admission
21 to marijuana, did you decide to have Officer McCall
22 run the drug dog?

23 A Yes, ma'am.

24 Q And did the dog alert per what Officer
25 McCall related based on his training?

PROFFERED DIRECT EXAMINATION OF J. HERNANDEZ BY MS.
BLUNDY

1 A Yes, ma'am.

2 Q And was a search performed on this
3 vehicle?

4 A Yes, ma'am.

5 Q Who performed that search?

6 A Myself and Officer McCall.

7 Q And during that search, is it fair to say
8 that there was a lot of items inside that vehicle;
9 is that correct?

10 A Yes, ma'am.

11 Q And did you determine who owned the
12 vehicle?

13 A Yes, ma'am.

14 Q And who was that?

15 A The Defendant's girlfriend.

16 Q And do you recall her name?

17 A No, ma'am, I do not.

18 Q Does Lauren Burnhart sound familiar, or
19 are you unsure?

20 A It sounds familiar, but I can't for sure
21 say that is who owned the vehicle.

22 Q Okay. But he indicated that it was his
23 girlfriend's car, right?

24 A Yes, ma'am.

25 Q During the search, did the Defendant have

PROFFERED DIRECT EXAMINATION OF J. HERNANDEZ BY MS.
BLUNDY

1 personal items inside that vehicle?

2 A Yes, ma'am.

3 Q Was he able to -- or locate items that you
4 requested from him regarding the insurance,
5 regarding the registration, those types of items?
6 Was he familiar with where they were located?

7 A Yes, ma'am.

8 Q During your search, were you able to find
9 marijuana?

10 A Yes, ma'am.

11 Q What other substances did you believe to
12 be elicited that you found?

13 A I located a -- I guess it is an oil burner
14 with a crystal like substance on it consistent with
15 methamphetamine.

16 Q And was that on top of the burner?

17 A Yes, ma'am.

18 Q And what other items did you find during
19 your search?

20 A I found a -- well, we found a, it was a
21 marijuana pipe, as well as a glass pipe, which is
22 also consistent with, I guess, the use of smoking
23 Methamphetamines.

24 Q Did you find a third pipe, do you recall?

25 A I do not recall.

PROFFERED DIRECT EXAMINATION OF J. HERNANDEZ BY MS.
BLUNDY

1 Q If I showed you a photograph of the pipe,
2 would that refresh your memory?

3 A Yes, ma'am.

4 Q Just for purposes of the proffer, I'm
5 showing you what will be marked as State's Exhibit
6 9. But do you recall finding three pipes inside the
7 car?

8 A Yes, ma'am.

9 Q Okay. And yet only one pipe was taken
10 into custody, correct?

11 A Yes, ma'am.

12 Q And which pipe was that?

13 A It'll be this one.

14 Q The middle pipe?

15 A Yes, ma'am.

16 Q The brown pipe with the clear stem?

17 A Yes, ma'am.

18 Q Why was it that you decided to take this
19 pipe into custody specifically and not necessarily
20 the other two pipes?

21 A Due to the amount of residue that was
22 inside of, I guess, the pipe, there was not enough
23 residue residual. It was just a lot of burnt
24 matter. I guess not enough to really test.

25 Q On the skull pipe?

PROFFERED DIRECT EXAMINATION OF J. HERNANDEZ BY MS.
BLUNDY

1 A Yes, ma'am.

2 Q Okay. And then what is -- do you -- based
3 on your training and experience, like, what is this
4 type of pipe commonly used for?

5 A It is commonly used to smoke marijuana.

6 Q And based on your training and experience,
7 what is the pipe that you took into custody commonly
8 used for?

9 A Methamphetamine. Also when I looked
10 inside there was a crystal like substance inside as
11 well.

12 Q So you observed crystal like substance, at
13 least to some degree, on this middle pipe?

14 A Yes, ma'am.

15 Q And so you confiscated it and you put it
16 into the backpack, correct?

17 A Yes, ma'am.

18 Q Along with the oil burner?

19 A Yes, ma'am.

20 Q With the crystal like substance on top of
21 that as well, correct?

22 A Yes, ma'am.

23 Q But those were not the only items that you
24 found, right?

25 A No, ma'am.

PROFFERED DIRECT EXAMINATION OF J. HERNANDEZ BY MS.
BLUNDY

1 Q Do you recall finding scales inside the
2 vehicle?

3 MS. PORTER: Objection, leading.

4 BY MS. BLUNDY:

5 Q What other items did you find inside the
6 vehicle?

7 A Large knives. I'm trying to think. Lots
8 of knives.

9 Q If you saw a photograph, would that
10 refresh your memory?

11 A Yes, ma'am.

12 Q Just for the purposes of the proffer, I'm
13 going to show you what is marked as State's
14 Exhibit 15. What other items did you find inside
15 this vehicle that the Defendant was driving?

16 A Knives. And there was a set of brass
17 knuckles, knuckle busters. A grinder, to grind up
18 the marijuana in order for it to be put into a pipe
19 or rolled up into a joint or blunt. Cell phones.
20 Plenty of cell phones were there, as well as the
21 scales, just the scales.

22 Q What if any baggy did you find or do you
23 recall being taken from the car, or do you recall?

24 A I do not recall.

25 Q Okay. Officer Hernandez, you were the one

PROFFERED DIRECT EXAMINATION OF J. HERNANDEZ BY MS.
BLUNDY

1 who made the charges in this case; correct?

2 A Yes, ma'am.

3 Q And even though there were cell phones and
4 a scale, paraphernalia; what were the charges that
5 you made in this case?

6 A Possession of methamphetamine.

7 Q In making a possession case, what did you
8 use to determine these drugs belonged to that
9 Defendant? Were there specific facts that led you
10 to making specific charges on Mr. Cantrell?

11 A One to do with his prior history. Two, to
12 do with whatever, speaking to him. And finding
13 these objects, he started becoming a lot more, not
14 say irate, but more nervous. And he was wanting to
15 cooperate, as far as trying to speak with narcotics.

16 Q Okay. Let's talk about that for a minute.
17 Were you able to Mirandize the Defendant?

18 A Yes, ma'am.

19 Q And after he was Mirandized, did he
20 acknowledge, and then did he still speak with you?

21 A Yes, ma'am.

22 Q And after he spoke with you, he in fact --
23 or what comments did he make about the marijuana
24 itself?

25 A That there was marijuana in the vehicle.

PROFFERED DIRECT EXAMINATION OF J. HERNANDEZ BY MS.
BLUNDY

1 Q Okay. So, he knew about the marijuana?

2 A Yes, ma'am.

3 Q Okay. And then did he ask to -- what
4 other comments did he make to you that you took into
5 consideration in making these charges?

6 A He was very, very adamant on speaking with
7 the narcotics agents at the time. He kept saying
8 that he knew where the stuff was coming from, stuff
9 meaning I guess drugs, illegal narcotics; most
10 likely meth.

11 Q Was this before or after he knew about the
12 methamphetamine? Let me rephrase my question. When
13 he said to you he could tell you he knew where the
14 stuff was coming from, was he referring to the
15 methamphetamine or the marijuana?

16 A Methamphetamine.

17 Q Okay. But he didn't just ask you one time
18 to speak with a narcotics officer, correct?

19 A No, ma'am.

20 Q It was multiple times?

21 A Yes, ma'am.

22 Q And based on his request, did you
23 entertain that?

24 A After transporting him to the Oconee
25 County Detention Center, I did in fact get in touch

PROFFERED DIRECT EXAMINATION OF J. HERNANDEZ BY MS.
BLUNDY

1 with a narcotics agent.

2 Q You did?

3 A Yes.

4 Q Okay. So, you took him -- you said that
5 you took him to the detention center?

6 A Yes, ma'am.

7 Q Then the narcotics agent was called?

8 A Yes, ma'am.

9 Q Do you know if the narcotics agent went
10 and talked to him?

11 A Yes, ma'am. He did not.

12 Q Did he cooperate with the narcotics agent,
13 to the best of your knowledge?

14 A The narcotics agents did not want --

15 Q Did not wish to speak with him?

16 A No, did not wish to speak with him at all.

17 Q Okay. So, at that point you went and
18 pursued the charges of possession of
19 methamphetamine?

20 A Yes, ma'am.

21 Q When you put the burner, the pipe, and the
22 methamphetamine or the crystal like substance into
23 the BEST pack, did you alter or change those
24 substances in any way?

25 A No, ma'am.

PROFFERED DIRECT EXAMINATION OF J. HERNANDEZ BY MS.
BLUNDY

1 Q And you sent them down to the lab to be
2 tested?

3 A Yes, ma'am.

4 Q Do you get to make the calls as to what
5 items will be tested and which ones won't?

6 A Yes, ma'am.

7 Q Okay. Explain that.

8 A It is whenever you fill out one of the
9 BEST packs, you put on there as far as a detailed
10 description of what the item is and what the
11 possibility -- what you want to be checked, as far
12 as whether it be drugs or residue.

13 Q Okay. So, when you sent the pipe down to
14 Meredith at the lab, you did request her to test
15 that item?

16 A Yes, ma'am.

17 Q Okay. But you had no control over whether
18 or not she decided to actually test that item,
19 correct?

20 A Yes, ma'am.

21 Q And that was based on your observation of
22 the crystal like substance in that pipe?

23 A Yes, ma'am.

24 Q The pipes were all located inside the
25 vehicle, correct?

PROFFERED CROSS EXAMINATION OF J. HERNANDEZ BY MS.
PORTER

1 A Yes, ma'am.

2 Q He was the only occupant of that vehicle,
3 correct?

4 A Yes, ma'am.

5 Q And he had indicated to you a close
6 relationship with the owner of that vehicle,
7 correct?

8 A Yes, ma'am.

9 Q And he had other personal items inside
10 that vehicle, correct?

11 A Yes, ma'am.

12 MS. BLUNDY: I have no further questions.
13 Please answer any that Ms. Porter may have.

14 THE COURT: All right. Ms. Porter, your
15 witness.

16 MS. PORTER: Thank you, Your Honor. May it
17 please the Court. Thank you, Officer Hernandez.

18 PROFFERED CROSS EXAMINATION

19 BY MS. PORTER:

20 Q Real quickly, you said that you made the
21 decision to charge him with possession of
22 methamphetamine. In fact, it was over ten days
23 before you charged him with that; isn't that
24 correct?

25 A Yes, ma'am.

PROFFERED CROSS EXAMINATION OF J. HERNANDEZ BY MS.
PORTER

1 Q And why is that?

2 A Due to the unknowing of what the substance
3 was on the oil burner.

4 Q Okay. Well, so I believe your testimony
5 was that you saw crystal substance on the oil burner
6 and in the pipe, and that is why you put them in the
7 BEST pack together?

8 A Yes, ma'am.

9 Q But now you are saying that you don't know
10 what that substance was?

11 A The one that was in the pipe that was
12 commonly used for methamphetamine was most likely
13 methamphetamine. The oil burner had a crystal like
14 substance on it as well. But there was pieces of Q
15 tips that were, I guess, used to filter out what is
16 commonly used whenever an addict heats up an oil
17 burner to stick a needle through the, I guess, the
18 cotton or the Q tips to filter out whatever
19 substance is there, and then shoot it up. So, that
20 could be methamphetamine. It could also be
21 Ketamine. It could be a number of different
22 narcotics.

23 Q So you would agree that the best practice
24 would have been to put these in two separate BEST
25 packs?

PROFFERED CROSS EXAMINATION OF J. HERNANDEZ BY MS.
PORTER

1 A Or it could be the same thing,
2 Methamphetamines.

3 Q It could be, but you didn't know for sure?

4 A No, ma'am.

5 Q So it would have been a best practice to
6 put the substance that you didn't know what it was
7 in a separate BEST pack from something that you
8 believed you knew what it was, right?

9 A It was a crystal like substance believed
10 to be methamphetamine. Same consistency of it.

11 Q Officers commonly charge certain drug
12 offenses as one substance and it comes back from the
13 lab as a different substance, correct?

14 A Yes, ma'am.

15 Q So just to see a crystal like substance
16 doesn't necessarily mean that it is meth?

17 A No, ma'am.

18 Q Okay. Now, let's talk about where these
19 items were found. The oil burner, where did that
20 come from?

21 A It came from the trunk.

22 Q Do you remember searching the back seat of
23 the car?

24 A Yes, ma'am. There was a lot of clothing
25 and a lot of the Defendant's clothing, and actually

PROFFERED CROSS EXAMINATION OF J. HERNANDEZ BY MS.
PORTER

1 some of -- a lot of clothing, a lot of his personal
2 items and I guess household items, almost like as if
3 he was sleeping and living in his car.

4 Q Do you remember a red Vera Bradley bag?

5 A No, ma'am, I don't recall.

6 Q Would it surprise you to learn that the
7 oil burner came from a red Vera Bradley bag with
8 initials on it that were not Mr. Cantrell's
9 initials?

10 A Would it surprise me?

11 Q Yeah.

12 A No, ma'am.

13 Q Okay. Have you reviewed your body cam
14 video prior to coming to court today?

15 A Yes, ma'am.

16 Q Okay. And you didn't see that red Vera
17 Bradley bag?

18 A I don't recall, ma'am.

19 Q Okay. But you think that the oil burner
20 came from the trunk. Do you remember that the pipe
21 that you put into this BEST pack came from the front
22 passenger side of the vehicle?

23 A Yes, ma'am, I do. I believe the Defendant
24 actually did tell me at one point that that is where
25 one of the pipes were at.

PROFFERED CROSS EXAMINATION OF J. HERNANDEZ BY MS.
PORTER

1 Q The Defendant told you there was marijuana
2 in the car, and he told you where that was?

3 A Yes, ma'am, but he also said where the
4 pipe was at as well.

5 Q Okay. And he told you that there was
6 marijuana in the car before you Mirandized him?

7 A Yes, ma'am.

8 Q And you told other officers that you were
9 not going to charge him with that because he was
10 upfront and honest, correct?

11 A Yes, ma'am.

12 Q All right. So you have indicated that the
13 Defendant's girlfriend owned this vehicle. And you
14 would agree that this car was just loaded to the
15 brim with lots of different items?

16 A Yes, ma'am.

17 Q Okay. And it would be impossible to
18 determine exactly who owned what?

19 A Yes, ma'am.

20 Q Now, you said that the pipe was one that
21 was commonly used for methamphetamine. That pipe
22 could have been used to smoke anything, correct?

23 A Yes, ma'am.

24 Q It could have been used to smoke
25 marijuana?

PROFFERED CROSS EXAMINATION OF J. HERNANDEZ BY MS.
PORTER

1 A You speaking about the same glass pipe
2 with crystal like substances inside?

3 Q Yes.

4 A I guess if one were to try, yes.

5 Q If one were to smoke hashish, is that a
6 crystal like substance?

7 A I guess it can be after it's heated up.

8 Q And that is a derivative of marijuana,
9 correct?

10 A Hashish. Yes, I mean, but it can still
11 leave a crystal like substance after it burns I
12 guess. Anything can turn into crystal after it's
13 burnt.

14 Q Right. A crystal like substance doesn't
15 necessarily equate to methamphetamine?

16 A Not necessarily, no.

17 Q Okay. All right. And so you said that
18 Mr. Cantrell was very adamant about speaking with a
19 narcotics agent. That was after he had been
20 Mirandized and knew that he was going to jail,
21 correct?

22 A Yes, ma'am.

23 Q And it's not uncommon for someone who
24 knows that they are in trouble to try to get out of
25 trouble by helping law enforcement?

PROFFERED CROSS EXAMINATION OF J. HERNANDEZ BY MS.
PORTER

1 A Yes.

2 Q In fact, people who are arrested on crimes
3 that aren't even drug related sometimes ask to speak
4 to narcotics to get out of trouble, correct?

5 A Yes, ma'am.

6 Q So walk me through one more time why it
7 was you waited so long to charge him with the
8 possession of methamphetamine?

9 A I believe that it was to wait and see what
10 the substance came back as.

11 Q So, you are telling me that the substance
12 came back within ten or so days?

13 A Well, as far as him being charged for
14 that, we, I guess that you could say that I was
15 trying to figure out what to do, as far as his
16 charges go. I didn't know what that substance was
17 at the time, so I was like, well, this is most
18 likely probably what it is.

19 Q It took you from April 6th until April
20 13th to decide you thought that that was what that
21 substance was?

22 A Honestly, ma'am, I don't remember. I
23 can't recall why.

24 Q You can't recall why?

25 A Yeah.

PROFFERED REDIRECT EXAMINATION OF J. HERNANDEZ BY
MS. BLUNDY

1 Q Okay. And, again, the pipe that you sent
2 off to be tested was in a completely different
3 location than the oil burner, potpourri burner --
4 they are called different things -- but they were in
5 different locations?

6 A Yes, ma'am.

7 Q Have you seen the lab report for these
8 substances?

9 A Yes, ma'am.

10 Q Okay. Are you aware that the pipe that
11 you put in the BEST pack, that no analysis was
12 performed on that?

13 A Yes, ma'am.

14 Q Okay. So we don't know what was in that
15 pipe, correct?

16 A No, ma'am.

17 Q Okay. As far as we know, it could have
18 been something completely separate and apart from
19 what was found in that oil burner?

20 A Yes, ma'am.

21 MS. PORTER: No further questions.

22 THE COURT: Anything further from this witness?

23 MS. BLUNDY: Yes, Your Honor.

24 PROFFERED REDIRECT EXAMINATION

25 BY MS. BLUNDY:

PROFFERED REDIRECT EXAMINATION OF J. HERNANDEZ BY
MS. BLUNDY

1 Q You took out these charges in this case,
2 right?

3 A Yes, ma'am.

4 Q And, in fact, would it surprise you that
5 it hadn't been as long as the Defense's attorney
6 said. This case happened on April the 6th of 2019
7 and charges were sought April the 10th of 2019, so
8 four days, not ten. Is that a typical -- can that
9 be a typical amount of time before deciding to
10 charge somebody?

11 A Yes, ma'am.

12 Q Especially if they had asked or requested
13 to work with a narcotics division?

14 A Yes, ma'am.

15 Q And just to ask you one more time. That
16 specific pipe that you placed in the BEST pack, it
17 is your testimony before this Court today that you
18 saw a crystal like substances in that pipe?

19 A Yes, ma'am.

20 Q And although there are other crystal like
21 substances, what did you believe or suspect, based
22 on your training and experience, that substance to
23 be?

24 A Methamphetamine.

25 Q Is that why you sent it off for testing

PROFFERED DIRECT EXAMINATION OF Z. MCCALL BY MS.
BLUNDY

1 along with the other items?

2 A Yes, ma'am.

3 MS. BLUNDY: No further questions of this
4 witness, Your Honor.

5 THE COURT: Thank you, Officer. You can step
6 down.

7 THE WITNESS: Yes, sir.

8 THE COURT: Do you have any other witnesses on
9 the proffer?

10 MS. BLUNDY: Yes, Your Honor.

11 THE COURT: Okay.

12 MS. BLUNDY: I would like to call Officer
13 McCall.

14 Thereupon,

15 ZACHARY MCCALL

16 was called as a witness, having been first duly sworn,
17 was examined and testified as follows.

18 PROFFERED DIRECT EXAMINATION

19 BY MS. BLUNDY:

20 Q Please state your name for the record.

21 A Zachary McCall.

22 Q Officer McCall, where do you work?

23 A Walhalla Police Department.

24 Q And how long have you been at the Walhalla
25 Police Department?

PROFFERED DIRECT EXAMINATION OF Z. MCCALL BY MS.
BLUNDY

1 A Since March 2017.

2 Q Prior to that, were you in law
3 enforcement?

4 A No, ma'am.

5 Q And so from the time that you started law
6 enforcement to today, you have been with the
7 Walhalla Police Department?

8 A Yes, ma'am.

9 Q And you have received a lot of training
10 and certifications through them, correct?

11 A Yes, ma'am.

12 Q And one of those would be a certified K9
13 officer; is that right?

14 A Yes, ma'am.

15 Q And what is your dog's name?

16 A Kimber.

17 Q Is she a male or a female?

18 A A female.

19 Q Do you recall working on April the 6th of
20 2019?

21 A I do.

22 Q And when you were on duty that day, do you
23 recall assisting Officer Hernandez when he was with
24 the department on a traffic stop with Randy
25 Cantrell?

PROFFERED DIRECT EXAMINATION OF Z. MCCALL BY MS.
BLUNDY

1 A I do.

2 Q When you pulled up to the scene, did you
3 pull up pretty much simultaneously with Officer
4 Hernandez?

5 A I believe so, but I can't recall for
6 certain.

7 Q Who requested you to run a drug dog search
8 on Mr. Cantrell's car?

9 A Officer Hernandez.

10 Q And not getting into every little detail
11 at this point of the proffer, did the dog alert to
12 the vehicle?

13 A Yes.

14 Q And were you also aware that the Defendant
15 had admitted to marijuana being inside the vehicle?

16 A Yes.

17 Q Based on that, did Officer Hernandez ask
18 you to assist with the search of the vehicle?

19 A Yes.

20 Q And did you?

21 A Yes.

22 Q Okay. Do you recall there being a lot of
23 items inside that vehicle?

24 A Yes, I do.

25 Q Do you recall who owned the vehicle?

PROFFERED DIRECT EXAMINATION OF Z. MCCALL BY MS.
BLUNDY

1 A I do not.

2 Q Okay. And when you found these items --
3 well, let me scratch that. Strike that.

4 For the purposes of this proffer, I
5 want to show you what has been marked as State's
6 Exhibit 9. How many pipes do you recall obtaining
7 from this vehicle?

8 A The three that are pictured.

9 Q And were you the one who found all three
10 pipes, or do you remember?

11 A I don't recall. I know that I did find
12 some of the pipes in the vehicle, but I don't recall
13 how many.

14 Q Okay. Do you recall which ones were
15 placed into the BEST pack?

16 A Yes.

17 Q Do you recall specifically handling the
18 pipes?

19 A Yes, I do.

20 Q Did you alter or change them? They are a
21 non-expugnable item, but did you move them or change
22 them or do anything to them when you gave them to
23 Juan?

24 A I did not.

25 Q What was it about the middle pipe, the

PROFFERED DIRECT EXAMINATION OF Z. MCCALL BY MS.
BLUNDY

1 brown pipe with the white/clear, I guess you would
2 say stem, what was it specifically about that pipe
3 why you and Juan decided to place that one into the
4 BEST pack and not the other two?

5 A That specific pipe did have a residue in
6 it that is consistent with narcotics, so that is why
7 that one was seized and taken and put into a BEST
8 kit for testing.

9 Q Did you see any residue on either of the
10 other two pipes?

11 A Not that I recall.

12 Q Okay. But you do recall seeing -- was it
13 a crystal like residue?

14 A White crystal like substance, yes.

15 Q On the middle pipe?

16 A Yes.

17 Q Okay. Do you remember if the Defendant
18 had acknowledged to there being pipes in the
19 vehicle?

20 A I do not recall.

21 Q Do you recall finding other items that you
22 considered relevant when you and Juan were
23 discussing the charges on Mr. Cantrell?

24 A Yes.

25 Q What were those?

PROFFERED DIRECT EXAMINATION OF Z. MCCALL BY MS.
BLUNDY

1 A I believe there was an oil burner that was
2 found, a camouflaged oil burner that had some
3 residue in it. There was several paraphernalia
4 items in the vehicle, but that was it --

5 Q Do you recall finding scales?

6 A Yes.

7 Q Do you recall finding baggies?

8 A Yes.

9 Q Do you recall finding torches?

10 MS. PORTER: Objection, leading.

11 THE COURT: Rephrase your question.

12 BY MS. BLUNDY:

13 Q What other items did you see?

14 A We did locate a scale in the vehicle, and
15 we did locate baggies that were in the glove box. I
16 remember that specifically. There was multiple
17 items in the vehicle for lighting and using
18 narcotics. And those were all taken into
19 consideration during the time of the traffic stop.

20 Q For the purpose of the proffer I'm going
21 to show you what has been marked as State's
22 Exhibit 15. What other items do you recall finding?

23 A The ones that are listed in the picture.

24 Q Can you please state that for the record?

25 A Several cell phones, a scale. Multiple

PROFFERED DIRECT EXAMINATION OF Z. MCCALL BY MS.
BLUNDY

1 scales, multiple scales, two scales. Several
2 paraphernalia pipes. Multiple swords. Multiple
3 paraphernalia items used for narcotics, whether that
4 be grinders. And also a torch.

5 Q Can you explain the torch a little bit?

6 A Yes. So, for the purpose of narcotics and
7 smoking it, that is something that we commonly find
8 and something that is commonly used for smoking
9 methamphetamine.

10 Q So, would a torch tell you more that it
11 would go to someone who is a user or a dealer?

12 A A user.

13 Q Okay. Did you agree with Officer
14 Hernandez, confiscating just the one pipe and not
15 the others?

16 A I don't recall.

17 Q So that wasn't your choice to make?

18 A No.

19 Q You just remember locating it?

20 A Yes.

21 Q Do you recall if the Defendant had other
22 personal items that belonged to him inside that car?

23 A Yes.

24 Q What do you recall about his grocery bag?

25 A That he had multiple sensitive items that

PROFFERED CROSS EXAMINATION OF Z. MCCALL BY MS.
PORTER

1 needed to be refrigerated, or it appeared that he
2 had just went to a local store to buy it, and it was
3 time sensitive that it be put into a refrigerator in
4 a timely manner.

5 Q What do you recall about clothing items?

6 A I recall there was multiple male items in
7 the vehicle, male clothing items. Nothing specific.

8 Q What about shoes?

9 A I recall there was a pair of boots in the
10 vehicle, like a tan, tan in color maybe, Timberland
11 boots that were in the vehicle. They are consistent
12 with what a male would wear.

13 Q Was he alone in the vehicle?

14 A Yes.

15 MS. BLUNDY: Thank you. I have no further
16 questions for this witness. Please answer anything
17 Ms. Porter may have.

18 THE COURT: Ms. Porter.

19 MS. PORTER: Thank you, Your Honor. May it
20 please the Court.

21 PROFFERED CROSS EXAMINATION

22 BY MS. PORTER:

23 Q Do you remember locating a red Vera
24 Bradley bag in the backseat of this car?

25 A I do not specifically remember a bag,

PROFFERED CROSS EXAMINATION OF Z. MCCALL BY MS.
PORTER

1 ma'am.

2 Q Do you recall finding any items that would
3 belong to a female?

4 A There were several items that belonged to
5 male and female inside the vehicle, yes.

6 Q Where did Kimber alert on this car?

7 A She alerted on the driver's side door of
8 the vehicle.

9 Q But neither the potpourri burner or the
10 pipe that were submitted into evidence were on the
11 driver's side door; is that correct?

12 A That's correct.

13 Q I asked this of Officer Hernandez, but
14 I'll ask you as well. Officers will submit -- well,
15 they will make an arrest for a certain substance,
16 submit that to the lab, and the lab report comes
17 back that it is a different substance, correct?

18 A Correct.

19 Q So just because you see a crystal like
20 substance doesn't mean, even based on your training
21 and experience, that it is methamphetamine or
22 whatever drug you charge at that point?

23 A That's correct. Until it's tested we
24 don't know.

25 Q Until it's tested you don't know?

PROFFERED CROSS EXAMINATION OF Z. MCCALL BY MS.
PORTER

1 A Yes.

2 Q Okay. You would agree that a best
3 practice for law enforcement when two items are
4 confiscated from two different areas of a car would
5 be to put them in two different BEST packs?

6 A Not necessarily, no.

7 Q Why is that?

8 A All items that are seized in something, a
9 case that we have, depending on what it is,
10 generally that is more of an evidence question for
11 the evidence tech, but typically that is all placed
12 into one BEST kit for the lab.

13 Q The arresting officer is the one who puts
14 it in a BEST pack, correct?

15 A Correct.

16 Q So the evidence tech, once he gets it, it
17 is already in -- receives it, it is already in the
18 BEST pack?

19 A Correct.

20 Q Okay. And in other cases, have you put
21 multiple items in the same BEST pack?

22 A Does it have to pertain to this case?

23 MS. BLUNDY: Just answer the question.

24 THE COURT: Answer the question.

25 A Okay, sorry, sir. Yes, I have.

PROFFERED CROSS EXAMINATION OF Z. MCCALL BY MS.
PORTER

1 Q Okay. Were you aware that no analysis was
2 performed on the pipe seized in this case?

3 A No, I was not aware of that.

4 Q Okay. And I just want to confirm, your
5 testimony was that the pipe that was in the middle
6 of that picture that Ms. Blundy showed you -- I
7 think that it was Exhibit 9 -- your testimony was
8 that it had residue consistent with narcotics,
9 correct; that is what you testified to?

10 A Yes, crystal like substance in the pipe,
11 yes.

12 Q You didn't say that it was consistent with
13 methamphetamine.

14 A Crystal like substance consistent with
15 narcotics, yes.

16 Q And there are other substances that are
17 crystal like substances that aren't necessarily
18 methamphetamine?

19 A That's correct.

20 MS. PORTER: I have no other questions of this
21 witness.

22 THE COURT: Anything further of this witness?

23 MS. BLUNDY: Nothing further, Your Honor.

24 THE COURT: Thank you, Officer. You can step
25 down.

MOTIONS

1 Okay. Anything further?

2 MS. BLUNDY: No more witnesses, Your Honor.

3 THE COURT: Okay. All right. Anything further
4 for the record?

5 MS. PORTER: Your Honor, I would just reiterate
6 my earlier motion. We have no analysis of this pipe.
7 It was found in a completely different area of the
8 car. I think introducing it into evidence is more
9 prejudicial than probative. He is -- my client is
10 charged with possession of meth, and we have no idea
11 what was in that pipe.

12 THE COURT: Okay. Thank you, Ms. Porter. Ms.
13 Blundy.

14 MS. BLUNDY: Your Honor, the State takes the
15 opposite opinion. We believe in, especially in a
16 constructive possession case, it certainly would be
17 probative to the jury to know that these pipes were
18 in the dominion and control of the Defendant. I did
19 pull the case of State versus Muhammad over the lunch
20 hour. I believe it to still be good case law.

21 This really went to the heart of mere
22 presence versus, you know, knowledge and
23 exercise and control. But I want to bring the
24 Court's attention to three things that they use
25 to determine more than mere presence. And some

MOTIONS

1 of those were the closeness of the relationship
2 between the Defendant and the owner of the
3 vehicle. One was the presence of personal
4 belongings by the Defendant. And the third one
5 was the degree related to criminal activity.

6 I think the jury deserves to see the full
7 picture of everything. And I think that it
8 would be probative to show that there was three
9 pipes, that he had admitted to marijuana, that
10 those pipes, some of them went to marijuana,
11 there was a pipe that went to methamphetamine.
12 And he acknowledged those, one of the pipes, to
13 the officers.

14 So I think that the pipe is relevant. I
15 think that it is essential to the State to have
16 not only the pipes, but the evidence of what
17 was recovered in the car, and let the jury make
18 that determination. Also, the pipes are
19 non-fungible pieces of evidence, so certainly
20 we are not going down the road of them being
21 altered or changed or anything of that nature.
22 And they are in the same BEST pack, pursuant to
23 the officer's testimony, along with the oil
24 burner.

25 THE COURT: I have reviewed the evidence. And I

MOTIONS

1 will make several findings on the record. First,
2 that this was a traffic stop. The Defendant was
3 alone in the vehicle and in control of the vehicle.
4 There was no challenge to the search. The vehicle
5 had a large amount of items. The officers saw a
6 crystal like substance in the pipe in question, that
7 the officer testified that based on his training and
8 experience was most likely methamphetamine.

9 The officer and his supporting officer
10 also found a number of other paraphernalia
11 items commonly used in the smoking of
12 methamphetamine, along with a burner which also
13 was taken with the pipe and submitted for
14 testing to the chemist. They were put in the
15 same BEST pack.

16 Chemist did not test the pipe. We don't
17 know why. But that, as testified to, was out
18 of the officer's control. Based on these facts
19 and the nature of the case, I find that the
20 pipe evidence has probative value and is
21 relevant. Relevant evidence is evidence that
22 has the tendency to make the existence of a
23 fact that is of consequence to the
24 determination of the action more probable or
25 less probable than it would have been without

MOTIONS

1 the evidence.

2 Now, I have reviewed the applicable case
3 law and I would call your attention to State
4 versus Sweat which can be found at *606 S.E.2d*
5 *508*. Which states that evidence is relevant if
6 it tends to establish or make more or less
7 probable some matter in issue upon which it
8 directly or indirectly bears, and it is not
9 required that the inference sought should
10 necessarily follow from the fact proved.

11 So, the fact that this was not tested does
12 not mean that the pipe was not relevant. The
13 Defendant's arguments that it could be another
14 crystal like substance, that the items could
15 have been stored or should have been stored in
16 separate bags, that the items were found in
17 separate spaces, that no analysis was performed
18 on the pipe, these are arguments that go to the
19 weight of the evidence and not the
20 admissibility. Those are jury arguments.

21 So I will overrule the objection, and I
22 will allow the pipe into evidence. So anything
23 further? Do we have any update on Mr.
24 Cantrell?

25 MS. PORTER: I was just checking my phone. And,

MOTIONS

1 no, I do not.

2 THE COURT: Okay. We will go into recess and we
3 will try to get some information. If Mr. Cantrell is
4 not admitted into the hospital, he needs to make his
5 way back to the courthouse as soon as possible.

6 MS. PORTER: Yes, Your Honor.

7 THE COURT: If he -- and certainly, if he is
8 legitimately having a heart issue, we need to know
9 that because we will take a different course of
10 action.

11 MS. PORTER: Right.

12 THE COURT: But if there is no issue with him,
13 then we are going to take a different course of
14 action. So, we will go into recess and keep
15 inquiring.

16 MS. PORTER: I will make the call. Yes, Your
17 Honor.

18 (Brief recess.)

19 THE COURT: Please let the jury know that we
20 know that they are back there, but we have an issue
21 we are having to resolve.

22 (Recess.)

23 MS. PORTER: She texted me. Said that they
24 pulled him back into a room and they are running labs
25 on Mr. Cantrell.

MOTIONS

1 THE COURT: Okay. Let's go on the record. I
2 have been informed that Mr. Cantrell has still not
3 left the hospital. Is there any update, Ms. Porter?

4 MS. PORTER: Yes, sir, Your Honor. I spoke with
5 someone in the emergency room. He is in a room now.
6 They are waiting for lab results to come back. I
7 have also spoken with Mr. Cantrell. He told me that
8 they hooked him up. I don't know if it is an EKG.
9 He is not well versed in medical terminology. The
10 doctor told him that it could have been a bad anxiety
11 attack. He had passed out, that is why he was taken
12 to the hospital.

13 But at this point they are waiting for the
14 lab results. The worker in the emergency room
15 said that it may be a little while until the
16 results get back. He told me that he is not
17 trying to get out of anything, he will be back
18 here when he's discharged, if he's discharged.

19 THE COURT: I'll recess this case until tomorrow
20 morning. Mr. Cantrell has no bond at this point.
21 And I'm instructing the Sheriff's Department to take
22 him into custody. If he's released he will be
23 transported to the jail and then here in the morning
24 and the case will be called. If he's not released,
25 they will follow policy and have a guard with him.

MOTIONS

1 But he has no bond at this point. And we will have
2 the jury come back at 9 in the morning.

3 MS. PORTER: Thank you, Your Honor.

4 MS. BLUNDY: Judge, do we need an order?

5 THE COURT: We need -- well, the bond is not
6 revoked. There is no bond because the case has been
7 called.

8 MS. BLUNDY: Okay.

9 THE COURT: So let me ask, does the Sheriff's
10 Department need a written order? Do y'all need a
11 written order to take him into custody?

12 THE SHERIFF'S DEPUTY: Yes, sir.

13 THE COURT: Okay. Prepare a written order to
14 take him into custody. Put in the order the case has
15 been called and the bond has expired due to the case
16 beginning. And he needs to be taken into custody and
17 held so he's available for trial.

18 MS. PORTER: You said 9:00 in the morning?

19 THE COURT: Yes, ma'am.

20 MS. PORTER: Thank you, Your Honor.

21 THE COURT: Okay.

22 MS. BLUNDY: Thank you, Your Honor.

23 THE COURT: And you can tell our jury that we
24 have had some unforeseen medical complications with a
25 witness, therefore the case is recessed until 9 in

MOTIONS

1 the morning.

2 THE BAILIFF: Okay. So, they can leave?

3 THE COURT: They can go home.

4 THE BAILIFF: You don't want me to bring them
5 back in here?

6 THE COURT: No, they can go straight from the
7 jury room.

8 (Trial adjourned for the day. Proceedings
9 continued on August 24, 2021.)

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COLLOQUY

1 8-24-2021 PROCEEDINGS

2 THE COURT: First order of business, has Mr.
3 Cantrell been located?

4 MS. BLUNDY: Not to our knowledge.

5 THE COURT: Ms. Porter, any information on where
6 your client is?

7 MS. PORTER: No, Your Honor, I have not heard
8 from him. I called the jail and spoke to a deputy at
9 the Sheriff's Office. He has not been picked up.
10 They are unaware of his location.

11 THE COURT: All right. I would note for the
12 record that Mr. Cantrell had a bond in the amount of
13 15,000-dollar surety issued by Judge Singleton on
14 April 13th, 2019. He apparently posted that bond
15 since he was out. He has restrictions on travel, not
16 to leave the state, and he has a requirement to
17 appear in court.

18 Bond also has the statement as is standard
19 on the bond form, "I understand and have been
20 informed that I have a right and obligation to
21 be present at trial. And should I fail to
22 attend court, the trial will proceed in my
23 absence. And it has been explained to me that
24 if I fail to appear before the Court as
25 required, a warrant for my arrest will be

STIPULATION PUT ON THE RECORD

1 issued."

2 That is standard language in the bond.

3 Mr. Cantrell signed that. So, the Court finds
4 that he has failed to appear and we will
5 continue the trial in his absence. So, is
6 there anything further for the record before we
7 call our jury in?

8 MS. BLUNDY: Yes, Your Honor. Just for the
9 record, the State and Defense entered into
10 stipulation regarding what amount of the video should
11 be played. And we just wanted to put that on the
12 record.

13 On Zach McCall's video, we are going to
14 redact from 22:45 to 22:56. And again, we are
15 going to redact 19:14 to 19:48. And we are
16 going to stop the video after the burner is
17 pulled out of the car, the oil burner.

18 In Juan Hernandez's video, we are going to
19 redact from 4:22 to 5:23. And again from 21:22
20 to the 25-minute mark. We are also going to
21 stop the video when they say Lieutenant
22 Underwood would be a good person for him to
23 talk to.

24 Your Honor, our stipulations are based on
25 there is talk of him being on probation and

COLLOQUY

1 also being a violent felon and possessing
2 ammunition, which the State and Defense agree
3 should not be presented to the jury for
4 consideration.

5 MS. PORTER: And just to add to that, he in fact
6 was not a violent felon. But we do stipulate to
7 those redactions.

8 THE COURT: Okay.

9 MS. PORTER: I have one other matter. I would
10 just move that no witness and neither attorney would
11 mention Mr. Cantrell's absence or the circumstances
12 that led to it.

13 MS. BLUNDY: We would agree to that as well.
14 And if you will let me just make sure that I let the
15 witnesses know before the jury comes in.

16 THE COURT: Okay. And, Ms. Porter, I add, for
17 these situations, I have a standard charge to the
18 jury about failure of the Defendant to testify, that
19 they can't hold that against them. I also add the
20 word "appear," that they are not to consider the fact
21 that he did not appear and testify. So, that is the
22 only way I know to handle that without calling it to
23 their attention.

24 MS. PORTER: All right. And that is sufficient
25 for the Defense.

OPENING STATEMENT BY THE STATE

1 THE COURT: All right.

2 MS. PORTER: Thank you, Your Honor.

3 MS. BLUNDY: Let me just talk with them real
4 quick.

5 (Pause.)

6 THE COURT: Madam Bailiff, would you get our
7 jury please?

8 (The jury enters at 9:25 a.m.)

9 THE COURT: Good morning, ladies and gentlemen.
10 We appreciate your patience. We are ready to
11 proceed. Ms. Blundy.

12 OPENING STATEMENT BY THE STATE

13 MS. BLUNDY: Good morning, Your Honor. May it
14 please the Court. "I'll tell you where the shit is.
15 Call a narcotics agent right now. Let me talk with
16 him. If you -- if I help you, will you help me?"
17 These are the Defendant's own statements to law
18 enforcement.

19 This is a possession of methamphetamine
20 case. In the State of South Carolina it is
21 illegal to sell methamphetamine. It is illegal
22 to distribute methamphetamine. But it is also
23 illegal to possess methamphetamine.

24 And in South Carolina there's two ways
25 that you can possess methamphetamine.

OPENING STATEMENT BY THE STATE

1 Something called actual possession, which is
2 pretty simple, exactly how it sounds, the
3 person would actually have it on their body.
4 Maybe in a piece of clothing, maybe inside
5 their body, maybe in a pocket. Actually on
6 their bodily person. That is not this type of
7 case.

8 But there is a second way that you can
9 possess a drug in South Carolina, and it is
10 called constructive possession. Well, what
11 does constructive possession mean? You will
12 get a legal definition from the Judge later on
13 in the trial. And I urge you to listen to that
14 law. But essentially what it means is if the
15 person had dominion and control over an area or
16 a premises, that the drugs were there in that
17 premises, that they had dominion and control
18 over.

19 But it can't just be mere presence of the
20 drugs. The State has to prove that they had
21 knowledge of how they were going to have
22 control over it for the drug's use and
23 disposition. That is why I bring you to the
24 Defendant's statements. His statement that he
25 was going to tell the officers where it came

OPENING STATEMENT BY THE STATE

1 from, and he wanted to talk to a narcotics
2 agent about how he could help law enforcement
3 know where they came from.

4 This case started out like a traffic stop.
5 He was pulled over for a simple brake light,
6 brake light being out. Officer Juan Hernandez
7 now works for Seneca Police Department, but at
8 the time he was working for Walhalla. He saw
9 the brake light out, he pulled him over. When
10 he approached the vehicle he came to find out
11 that the Defendant didn't have a valid driver's
12 license, no license whatsoever.

13 So as he starts talking to him, the
14 Defendant tells him, I have got a little, I
15 have got a little weed in the floorboard of the
16 car. Okay, that changes this from a regular
17 traffic stop, now there is marijuana inside the
18 vehicle. And then it evolves from there. You
19 will get to see portions of the video. You
20 will get to see video from a K9 drug dog search
21 and how that works. And you will get to see
22 the Defendant himself and some of what he says
23 to the officers.

24 Keep in mind that direct evidence is
25 evidence of, okay, it's raining, I see the rain

OPENING STATEMENT BY THE DEFENSE

1 outside the window. Circumstantial evidence is
2 if you wake up in the morning and the ground is
3 wet and you know that it rained. But there are
4 facts for you to consider, and it is your
5 decision as to how much weight you put to that
6 evidence.

7 So, the State has the burden of proof
8 always. And our burden is high, and it should
9 be. It is beyond a reasonable doubt. You are
10 probably familiar with it, but it's not beyond
11 every doubt, it is beyond a reasonable doubt.
12 A doubt for which you could give a valid
13 reason, but you don't have to have 100 percent
14 certainty. It is a gut test.

15 You were selected because the State
16 believes that you are the proper people to look
17 at this evidence, to weigh it out, and to
18 determine whether or not the Defendant was in
19 possession of methamphetamine. And I'm
20 confident that when you hear the evidence from
21 the State, you see the evidence for yourself,
22 you will agree, he is guilty. Thank you.

23 THE COURT: All right. Ms. Porter.

24 OPENING STATEMENT BY THE DEFENSE

25 MS. PORTER: Thank you, Your Honor. May it

OPENING STATEMENT BY THE DEFENSE

1 please the Court. How many of you checked under your
2 seat before you sat down this morning? How many of
3 you looked at the floor, felt up under it? What if
4 there's something there? Is it your seat? Do you
5 own it? Did someone else sit there yesterday?

6 It doesn't matter. The government, they
7 are going to lock you up for it. They are
8 going to cause you to lose your job. They are
9 going to send you off to prison. It doesn't
10 matter. Or does it matter?

11 At the end of the day, and at the end of
12 this trial, you are the only ones who get to
13 decide that. You see, sometimes the government
14 gets too big, too powerful. This constructive
15 possession legal mumbo jumbo that we are
16 talking about. And about 250 years ago there
17 was another government that got too big, too
18 powerful. And our founding fathers knew that.
19 And they set a system of checks and balances so
20 that our freedoms and our liberties would be
21 protected.

22 And one of the most important set of those
23 checks and balances is the function that you
24 all are playing today, the right to a trial by
25 jury.

OPENING STATEMENT BY THE DEFENSE

1 Now, what you are going to see in these
2 videos that the government has told you about
3 is that my client was driving a car that didn't
4 belong to him, and that car was packed to the
5 brim with stuff, a whole bunch of stuff. Now,
6 the government told you that Officer Hernandez
7 came to find out Mr. Cantrell was driving
8 without a license. What really happened is Mr.
9 Cantrell said, I don't have a license. They
10 didn't come to find out, Mr. Cantrell told them
11 that. And he also told them, There is some
12 marijuana in that car. He told them what he
13 knew.

14 But in the back seat of that car, like I
15 said, there was a whole bunch of stuff, there
16 was a hair dryer, a hair straightener, a Vera
17 Bradley bag with monogrammed initials. How
18 many men do you know with that? There was a
19 box of clothes, female clothes. And in that
20 box of clothes was a potpourri burner with a
21 little bit of meth residue. And the government
22 wants you to believe that Mr. Cantrell knew
23 that it was there. Now, if he's admitting that
24 he doesn't have a license, he is admitting that
25 he has got drugs in the car, marijuana, why

OPENING STATEMENT BY THE DEFENSE

1 wouldn't he admit that there is meth in the car
2 too?

3 I think, by the end of this trial, you
4 will all be confident, you will all have a
5 reason to doubt that he did not know that that
6 residue was in there. And when you see that
7 potpourri burner come out of that car, I'm not
8 sure that you will know that there was meth
9 residue in there either.

10 I ask you to pay close attention to those
11 videos. And again, check a government that has
12 become too powerful. Powerful enough to lock
13 you up for something that you are exercising
14 control and dominion over even if you don't
15 know what is in that something, what is under
16 your chair.

17 And at the end of this trial, we will ask
18 that you find Mr. Cantrell not guilty.

19 THE COURT: Ms. Blundy. One second, Ms. Blundy.
20 Ladies and gentlemen, Rene reminded me. Once you are
21 in the little box of the jury you can take your mask
22 off. I know that that's more comfortable. And we
23 have protocols in place to try to protect you, but
24 once you are in there, you are able to breath freely
25 and take your mask off.

DIRECT EXAMINATION OF Z. MCCALL BY MS. BLUNDY

1 Okay. Ms. Blundy.

2 MS. BLUNDY: Thank you. We would like to call

3 Officer Zach McCall to the stand.

4 **Thereupon,**

5 ZACHARY MCCALL

6 was called as a witness, having been first duly sworn,

7 was examined and testified as follows:

8 DIRECT EXAMINATION

9 BY MS. BLUNDY:

10 Q Good morning, Officer McCall.

11 A Good morning.

12 Q How are you this morning?

13 A I'm good.

14 Q Can you please state your full name for
15 the record and the court reporter?

16 A Zachary Greg McCall.

17 Q And where do you work?

18 A Walhalla Police Department.

19 Q And how long have you worked for the
20 Walhalla Police Department?

21 A Since March of 2017.

22 Q And during your duration of your career in
23 law enforcement, have you been with Walhalla the
24 entire time?

25 A Yes, ma'am.

DIRECT EXAMINATION OF Z. MCCALL BY MS. BLUNDY

1 Q And what is your rank with Walhalla?

2 A Sergeant.

3 Q And how long have you worked as a K9
4 narcotics officer?

5 A Since the beginning of 2017 -- or 2019,
6 sorry.

7 Q '19?

8 A Yes, ma'am.

9 Q And who is your K9 partner?

10 A K9 Kimber.

11 Q And how old is she?

12 A She is four and a half years old.

13 Q How long has Kimber been in service, the
14 entire time has she been with you or has she had
15 other handlers prior to your certification?

16 A She had a previous handler, Chief Sean
17 Brinson, and he had her for several months. I'm not
18 sure on an exact time period, but I have had her
19 since the beginning of 2019.

20 Q And how does a department end up with a
21 drug dog?

22 A The department seen a need for narcotics
23 dog, apprehension dog, a multipurpose dog for normal
24 patrol use within the city due to an increased rate
25 in narcotics and increased rate in needing a

DIRECT EXAMINATION OF Z. MCCALL BY MS. BLUNDY

1 tracking dog as well.

2 Q Do you know if funds were used to obtain
3 the dog, or was there a charitable donation to get
4 the dog?

5 A It was a charitable donation.

6 Q And how did Kimber end up with her name?

7 A That I am not sure.

8 Q You don't know, okay.

9 A No.

10 Q Okay. Can you explain for the jury a
11 little bit about how law enforcement uses a drug
12 dog?

13 A Yes. So, we have several road officers,
14 and if they perform a traffic stop and they find a
15 need that they -- they pick up on indicators that
16 something is wrong that points towards narcotics or
17 something that would pertain to narcotics, I get
18 called out for a free air -- what is called a free
19 air sniff which is where I conduct the dog around
20 the vehicle and she smells to see if there is any
21 kind of narcotics that are present. And if that is
22 the case, then that gives us probable cause to
23 search the vehicle for narcotics without gaining
24 consent to get inside the vehicle.

25 Q Was K9 Kimber deployed for the purpose of

DIRECT EXAMINATION OF Z. MCCALL BY MS. BLUNDY

1 conducting a free air sniff on April the 6th of
2 2019?

3 A Yes.

4 Q Do you recall being on duty that day?

5 A Yes, ma'am.

6 Q Throughout your training with K9 Kimber,
7 has she shown to be reliable in detecting different
8 narcotics or drugs?

9 A Yes, she has.

10 Q I'm going to show you a couple of
11 certifications.

12 MS. BLUNDY: Let the record reflect that I'm
13 showing certifications to opposing counsel.

14 BY MS. BLUNDY:

15 Q Sergeant McCall, I'm handing you what has
16 been marked as State's Exhibits 1 through 4. What
17 are these documents?

18 A This document is through the American
19 Police K9 Association. A copy of the membership
20 with the American Police K9 Association. The next
21 one is a certificate that I received on April the
22 5th of 2019 for narcotics detection certification.
23 The one, the next one is going to be from the prior
24 handler, which is Sean Brinson, he is not present,
25 and it is narcotics detection for 8-3 of 2018.

DIRECT EXAMINATION OF Z. MCCALL BY MS. BLUNDY

1 And then the last document is for the
2 different narcotics which include cocaine, crack
3 cocaine, heroin, marijuana, methamphetamine, and
4 MDMA. And that was dated August the 3rd, 2018.

5 Q 2018?

6 A Yes, ma'am.

7 Q Do you recognize the certificates?

8 A Yes.

9 Q Are they substantially in the same
10 condition as the day you put them and made them part
11 of your file?

12 A Yes, ma'am.

13 Q Have they been altered or changed in any
14 way?

15 A No, ma'am.

16 Q Does that give you the basis in order to
17 run the dog?

18 A Yes.

19 MS. BLUNDY: I move to admit State's Exhibits 1
20 through 4 into evidence.

21 MS. PORTER: Without objection.

22 THE COURT: State's Exhibits 1, 2, 3, and 4 will
23 be admitted without objection.

24 *(Whereupon, State's Exhibit No(s). 1-4*
25 *marked for identification and received in*

DIRECT EXAMINATION OF Z. MCCALL BY MS. BLUNDY

1 *evidence.)*

2 BY MS. BLUNDY:

3 Q Officer -- Sergeant McCall, tell us a
4 little bit about what you had to do to get this
5 membership certificate and what that means to you?

6 A So, after I received K9 Kimber, obviously
7 I had to go through an extensive process of the
8 different certifications to include narcotics
9 detection. And to do -- so, you have to go through
10 a course with the American Police K9 Association
11 that is pretty extensive. And after that course is
12 completed you have a certification test that you
13 have to do, which is in person. And the master
14 handler, obviously, observes you with the dog and
15 will certify you or not certify you based on how
16 well you and your dog work together.

17 And on April 5th, 2019 I did receive
18 a certification for being able to positively prove
19 the alert of my K9.

20 Q And turning to Exhibit Number 2, this has
21 your name in it as well as K9 Kimber's name in it.
22 So, what does that mean to you?

23 A So with this, obviously, this -- the
24 narcotics detection certificate. The other one was
25 the membership certificate, which is what you

DIRECT EXAMINATION OF Z. MCCALL BY MS. BLUNDY

1 receive after you go through just a patrol school
2 training with her with the American Police K9
3 Association handling. This one is the actual one
4 that certifies me and her as a narcotics detection
5 team. And, once again, on April the 5th, 2019 I did
6 receive that certification with her.

7 Q Looking at what is marked as State's
8 Exhibit 4. The K9 consultant Charles Kirchner, can
9 you explain who that is and -- yeah, explain to the
10 jury who that is?

11 A So, he is the master trainer with the
12 American Police K9 Association, has a multitude of
13 experience with K9s and training them. He actually
14 is the one who trained Kimber when she was a puppy.
15 She was then given to Sean Brinson, who was her
16 handler for a short period of time. I have had her
17 since then.

18 And then the following are the things
19 which she's trained on, which you can see are
20 cocaine, crack cocaine, heroin, marijuana,
21 methamphetamine, including MDMA, all of those
22 narcotics she's able to detect and give a positive
23 alert if they are present.

24 Q And she has had that proficiency
25 certificate since August the 3rd, 2018; correct?

DIRECT EXAMINATION OF Z. MCCALL BY MS. BLUNDY

1 A Correct.

2 Q And then will she go for periodic
3 re-trainings or testings?

4 A Yes. Yes.

5 Q And the last one that is marked as State's
6 Exhibit No. 3. I know that this has Chief Brinson's
7 name on it, but does this also attach to K9 Kimber?

8 A It does, yes.

9 Q And that also shows that she has done 80
10 hours of training and proficient, correct?

11 A Yes.

12 Q How much training do you think you went
13 through to get those certificates? You don't have
14 to go in great detail, but just to give the jury a
15 picture of what that was like?

16 MS. PORTER: I object. Calls for speculation.
17 The question was, what do you think that you went
18 through.

19 THE COURT: Rephrase your question.

20 BY MS. BLUNDY:

21 Q What training did you go through; what was
22 the process?

23 A It was an extensive two-week period I
24 believe, roughly, give or take, of every day going,
25 and the master handler, Mr. Kirchner, he would set

DIRECT EXAMINATION OF Z. MCCALL BY MS. BLUNDY

1 out narcotics in a building and the rooms in the
2 buildings and the vehicles they could have narcotics
3 or they could not have narcotics, that was up to me
4 and K9 Kimber to -- me being able to read her and
5 read her behavior changes and breathing changes and
6 ultimate indications on buildings as well as
7 vehicles. And without me being able to properly
8 read her I wouldn't have gotten certified.

9 And, like I said, it was roughly
10 about two weeks, give or take. And at the end of
11 the two-week period we did a certification class and
12 I was certified in narcotics.

13 Q Do you know what breed she is?

14 A She is a Belgian Malinois.

15 Q And that specific breed, and I won't even
16 attempt to try to say it, what is specific about
17 their ability to scent and to smell with that
18 particular breed?

19 A That particular breed is very keen on
20 their scent. They can smell ten times stronger than
21 the human can. They can also pick up on odors that
22 are present that, obviously, we can't. Marijuana
23 does have a smell to it. And the other ones do as
24 well, but not a strong enough smell that we can
25 detect for probable cause. So, by having K9 Kimber,

DIRECT EXAMINATION OF Z. MCCALL BY MS. BLUNDY

1 she can alert on things that we can't, we can't pick
2 up on essentially.

3 Q So, because of that, is this breed
4 commonly used in narcotic detection cases?

5 A Yes, it is.

6 MS. BLUNDY: Your Honor, at this time I would
7 like to qualify Sergeant McCall as an expert in K9
8 narcotics detection and handler.

9 MS. PORTER: Without objection.

10 THE COURT: The officer will be qualified as an
11 expert in K9 narcotics and detection, without
12 objection.

13 BY MS. BLUNDY:

14 Q Is there anybody else in your department
15 right now who has undergone the training with the
16 K9s like you have?

17 A No one other than -- well, no, because
18 Chief Sean Brinson only had her for, I would say a
19 short duration of time. I'm not sure how long he
20 had her, but I'm the longest handler that she has
21 had, at the department at least.

22 Q Okay. So would you say that you are the
23 go-to guy?

24 A Yes.

25 Q Okay. Turning back to this case. Do you

DIRECT EXAMINATION OF Z. MCCALL BY MS. BLUNDY

1 recall being called out on April the 6th of 2019?

2 Let me make sure that I got my date right. Yes. To
3 a traffic stop with Officer Hernandez?

4 A I do.

5 Q Do you recall coming into contact with the
6 Defendant, Randy Cantrell?

7 A I do.

8 Q Do you recall deciding to run the drug dog
9 around the car on that date?

10 A I do.

11 Q During that time, did you follow your
12 training in running the dog around the car?

13 A I did.

14 Q Tell the jury how you did that and what
15 you looked for when you ran Kimber?

16 A So, on the date and time in question I
17 deployed K9 Kimber for a free air sniff on the
18 vehicle in question. She is always brought to the
19 front passenger's side of the vehicle. And that is
20 standard, I do that on every stop that she gets
21 deployed on so she is not in a different spot.

22 I observed K9 Kimber to go around the
23 front bumper of the vehicle. I then observed her to
24 go down the driver's side front fender. And
25 ultimately at the driver's side door where the

DIRECT EXAMINATION OF Z. MCCALL BY MS. BLUNDY

1 window was down I observed a behavior change as well
2 as a breathing change. And then she gave a ultimate
3 indication for the presence of narcotics by sitting
4 at the source of the vehicle, at the driver door.

5 As previously mentioned, the driver's
6 side window was down, so the source of narcotics
7 coming from the vehicle that we got a positive alert
8 on was coming from the driver's side window because
9 the window was down and that is where the odor
10 pocket was strongest coming out of the vehicle.

11 Q Now, does she give different indications
12 for different drugs, or does she just give one
13 general indication that there's drugs inside the
14 car?

15 A She gives one general indication. There
16 is no specific indication for each narcotic. Like I
17 previously mentioned, a behavior change, a breathing
18 change, as well as sitting at the source.

19 Q And would a lay person or somebody who
20 hasn't had the training that you have had
21 necessarily pick up on that indication?

22 A No.

23 Q Okay. So you, in other words, know your
24 dog the best?

25 A Yes.

DIRECT EXAMINATION OF Z. MCCALL BY MS. BLUNDY

1 Q Turning to this case specifically, were
2 you confident in the indication that she gave you on
3 this occasion?

4 A Yes, I was.

5 Q And based on that, did you help perform a
6 search of this car?

7 A Yes, I did.

8 Q During that search, were you wearing a
9 body camera?

10 A Yes, I was.

11 Q And was it recording at the time of the
12 search?

13 A Yes.

14 Q I'm showing you what has been marked as
15 State's Exhibit 5. How do you recognize this
16 particular disc?

17 A This appears to be the body camera footage
18 from the traffic stop in question.

19 Q Did you have time to review it prior to
20 the trial?

21 A Yes.

22 Q Is it a fair and accurate representation
23 as to the date and time it was reported?

24 A Yes, it is.

25 Q Did you alter or change this video in any

DIRECT EXAMINATION OF Z. MCCALL BY MS. BLUNDY

1 way prior to trial?

2 A No, I did not.

3 MS. BLUNDY: Other than the redactions that the
4 State and the Defense have agreed upon, the State
5 moves to admit State's Exhibit No. 5.

6 MS. PORTER: Without objection.

7 THE COURT: State's Exhibit No. 5 admitted
8 without objection.

9 *(Whereupon, State's Exhibit No(s). 5*
10 *marked for identification and received in*
11 *evidence.)*

12 MS. BLUNDY: Judge, at this time I would like to
13 play portions for the jury.

14 THE COURT: Madam clerk, would you dim the
15 lights?

16 MS. BLUNDY: Can the jury hear the video?

17 THE COURT: Can everyone hear that? They
18 indicate that they can.

19 *(Video played for the jury.)*

20 MS. PORTER: Okay. I deleted number three, so
21 I'm having to add it back.

22 *(Video played for the jury.)*

23 MS. PORTER: Objection, move to strike.

24 MS. BLUNDY: And I would agree, Your Honor.

25 THE COURT: Okay. Ladies and gentlemen, you

DIRECT EXAMINATION OF Z. MCCALL BY MS. BLUNDY

1 will disregard that previous statement.

2 (Video resumed being played.)

3 MS. BLUNDY: Judge, I am sorry, it skipped. I
4 need to go back a little bit here. I apologize.
5 This is really difficult to get it exactly where we
6 agreed.

7 (Video resumed being played.)

8 MS. BLUNDY: Judge, I know that it might be a
9 little bit of a hassle, but Defense counsel and I
10 agree that it might be best if we let the jury leave
11 the courtroom prior to playing the last part.

12 THE COURT: Okay. If you would take the jury to
13 the jury room for a short break.

14 (Jury exits the courtroom at 10:17 a.m.)

15 THE COURT: We will be in recess for a short
16 break. Officer, you are under -- you are under oath,
17 you are still on the stand. Do not discuss your
18 testimony with anyone while taking a break.

19 WITNESS: Yes, sir.

20 (Brief recess.)

21 (Jury enters the courtroom at 10:30 a.m.)

22 (Video resumes playing.)

23 (Video concludes playing at 10:38 a.m.)

24 BY MS. BLUNDY:

25 Q Sergeant McCall, what was that last thing

DIRECT EXAMINATION OF Z. MCCALL BY MS. BLUNDY

1 that you had pulled out of that cardboard box?

2 A It was a camouflaged oil burner that had a
3 crystal like substance on top of it consistent with
4 methamphetamine that was dried to the top of it.

5 Q And you took it out and you placed it on
6 the hood of the vehicle?

7 A Yes, ma'am.

8 Q From there whose custody did that oil
9 burner go in?

10 A Officer Hernandez's.

11 Q When you were handling the oil burner with
12 the white crystal substance on top, did you alter or
13 change it in any way from the time that you pulled
14 it out of the vehicle and placed it on the hood of
15 the car?

16 A No.

17 Q There was also some pipes that you found.
18 What did you find inside of one of those pipes?

19 A So, inside of the clear crystal pipe -- or
20 the clear pipe that had crystal like residue in it
21 believed to be methamphetamine, there was also
22 another pipe that had -- that was metal that had
23 what was believed to be marijuana residue inside of
24 it. And it was burnt. And then there was another
25 pipe that was found that was also commonly used to

DIRECT EXAMINATION OF Z. MCCALL BY MS. BLUNDY

1 smoke methamphetamine out of.

2 Q And specifically the pipe with the clear
3 stem and the brown bowl, the one that you said that
4 you saw a white crystallized substance in, from the
5 time that you removed it from the vehicle to the
6 time that you placed it on the hood of the car, did
7 you alter or change that object or that substance in
8 any way?

9 A No, I did not.

10 Q So when those items left your care,
11 custody, and control they were exactly in tact as
12 how you found them?

13 A Yes.

14 Q And you then knew that Officer Hernandez
15 was going to take custody of those items?

16 A Yes.

17 Q In fact, you guys had talked about
18 evidence bags and placing those items in there,
19 correct?

20 A Yes.

21 Q Okay. The pipes weren't the only items
22 you found in the car, right?

23 A That's correct.

24 Q What items did you find specifically to
25 male clothing?

DIRECT EXAMINATION OF Z. MCCALL BY MS. BLUNDY

1 A I recall finding a pair of boots inside
2 the car that were consistent with what a male would
3 wear, several hoodies that were something that a
4 male would wear, the size of them. Mr. Cantrell is
5 a large guy, so there were several items in the
6 vehicle that were males without question.

7 Q Were there items that seemed like they
8 would also belong to a female?

9 A Yes.

10 Q Okay. What about other items; tell me
11 what the scales meant to you?

12 A So, the scales are something that we
13 commonly find with people that use narcotics, to
14 measure and weigh out what they are about to
15 purchase beforehand that way they don't overspend or
16 underspend for the product that they are getting.
17 There were several of those located inside the
18 vehicle.

19 Q And what about the torches, how are those
20 used and what do those mean to you?

21 A Torches are something that are commonly
22 used for people that smoke narcotics, specifically
23 methamphetamine, with what we located inside the
24 vehicle we thought that it was pertinent to the case
25 to place those with the case.

CROSS EXAMINATION OF Z. MCCALL BY MS. PORTER

1 Q And what did you find inside the glove box
2 specifically?

3 A Oh, we -- or I found a large amount of
4 clear baggies that are consistent with something
5 that narcotics are packaged with.

6 Q Did you have any discussions with the
7 Defendant about who owned the vehicle, or did you
8 leave that up to Officer Hernandez?

9 A I left that up to Officer Hernandez. I
10 don't recall talking to him about that.

11 MS. BLUNDY: I have no further questions for
12 you. Please answer anything that Ms. Porter may have
13 for you.

14 THE COURT: Ms. Porter, your witness.

15 MS. PORTER: Thank you, Your Honor.

16 CROSS EXAMINATION

17 BY MS. PORTER:

18 Q And thank you for being here today,
19 Sergeant McCall. I just wanted to circle back to a
20 few things that you talked about. You testified
21 about a free air sniff, what is that?

22 A So, a free air sniff is something that is
23 commonly used in the police world with K9s to detect
24 on vehicles for the presence of narcotics.

25 Q And you said that is a way to search if

CROSS EXAMINATION OF Z. MCCALL BY MS. PORTER

1 you don't have probable cause, that was your
2 testimony?

3 A That is correct. That is an alternative,
4 yes. It is an alternative means to search a
5 vehicle, yes.

6 Q Okay. When you arrived on scene, Officer
7 Hernandez had already determined that Mr. Cantrell
8 was driving under suspension, correct?

9 A Yes.

10 Q That is a crime, correct?

11 A Yes.

12 Q A crime that someone is arrested for and
13 booked for?

14 A Yes.

15 Q When someone is driving a car and they are
16 the only person in that car and they get arrested,
17 you have to tow the car, correct?

18 A That's correct.

19 Q And you do an inventory search after you
20 tow a car?

21 A That's correct.

22 Q And that basically means that you search
23 everything in the car so that you can account for
24 what is there or what is not there?

25 A (Witness nods.)

CROSS EXAMINATION OF Z. MCCALL BY MS. PORTER

1 Q Verbal responses for the record, please?

2 A That's correct, yes.

3 Q Okay. So you didn't really need probable
4 cause to search this car?

5 A Yes, ma'am. Well, no, because he was
6 going to be arrested anyways.

7 Q Okay. So, he was going to be arrested.
8 And this was April 6th of 2019, correct?

9 A Correct.

10 Q Okay. Let me show you what has already
11 been admitted into evidence and published to the
12 jury. All right. This membership certificate, what
13 is the date on that?

14 A April the 4th of 2019.

15 Q Okay. So, that is two days before this
16 incident?

17 A Correct.

18 Q Okay. And that, as I said, was State's
19 Exhibit 1. State's Exhibit 2, this is the K9
20 Association narcotic detection certification. What
21 is this date on that?

22 A April the 5th, 2019.

23 Q Okay. So, just one day before this stop.
24 So, you were excited to use your dog?

25 A Correct, yes.

CROSS EXAMINATION OF Z. MCCALL BY MS. PORTER

1 Q Okay. And we talked a lot about how much
2 training you and Kimber, who is an adorable dog, how
3 much training y'all went through. And does she
4 respond to commands pretty well?

5 A Yes.

6 Q Didn't you have to ask her a few times to
7 sit without her sitting in that video?

8 A That's correct.

9 Q Now, you testified that she alerted or
10 gave a command at the side of the driver's door
11 because the window was down. Does the window have
12 to be down for her to alert on a car?

13 A No.

14 Q Okay. And we do know that there were
15 narcotics in the passenger's side door, which is
16 where you began her search?

17 A Yes, correct.

18 Q There was marijuana recovered from there?

19 A Correct.

20 Q But she didn't alert on that door?

21 A No.

22 Q Okay. So, she had to go around to the
23 driver's side door. Now, is that where you
24 ultimately found this, what you call an oil burner
25 or potpourri burner?

CROSS EXAMINATION OF Z. MCCALL BY MS. PORTER

1 A No, it was recovered out of the back of
2 the vehicle. Out of the back.

3 Q The back, okay. Did she ever have a
4 chance to even get to the back of the vehicle?

5 A No.

6 Q You stopped the search before then, right?

7 A Yes, because she gave an indication.

8 Q But she didn't give an indication where
9 the marijuana was that he had already told you was
10 there?

11 A Correct.

12 Q Okay. So, you testified that you didn't
13 know anything about who owned this car; is that
14 correct?

15 A That's correct.

16 Q All right. You didn't hear on the video
17 just now a mention of a Ms. Burnhart?

18 A I do recall hearing that. I didn't recall
19 it during the case, in the initial case.

20 Q Do you recall hearing Officer Hernandez
21 talk about seeing a citation for disregarding a stop
22 sign for a Ms. Burnhart?

23 A I do recall that, yes.

24 Q Okay. In order to get a citation for
25 disregarding a stop sign, you have to be the one

CROSS EXAMINATION OF Z. MCCALL BY MS. PORTER

1 driving the car, correct?

2 A That's correct.

3 Q Okay. So that indicates Ms. Burnhart had
4 driven this car?

5 A Correct.

6 Q And Mr. Cantrell did in fact tell you and
7 Officer Hernandez this was not his car?

8 A Correct.

9 Q And we heard dispatch say this was a Ms.
10 Burnhart's car, correct?

11 A Correct.

12 Q The potpourri burner, the oil burner as
13 you call it, it was at the bottom of the cardboard
14 box, correct?

15 A Correct.

16 Q There was a bunch of female clothing that
17 was covering up that oil burner, correct?

18 A Correct.

19 Q You ever seen Mr. Cantrell wear female
20 clothing?

21 A Not to my knowledge, no.

22 Q It didn't look like it would fit him
23 either, did it?

24 A No.

25 Q Okay. So you did testify about finding

CROSS EXAMINATION OF Z. MCCALL BY MS. PORTER

1 male clothing that would seem to fit him. That was
2 not where this oil burner was found, correct?

3 A It was all in the backseat of the vehicle.
4 But, no, it was not within the box, no.

5 Q There were two different boxes in the back
6 of that vehicle, correct?

7 A Correct.

8 Q Okay. And I wanted to talk about the
9 pipes that you testified about. So there is really
10 not a difference between a meth pipe or a crack
11 pipe, is there?

12 A Not a whole lot of difference, no.

13 Q The only thing that makes something a meth
14 pipe is that it has meth inside of it?

15 A Correct.

16 Q Okay. The pipes that we saw, we don't
17 know what was in there, do we?

18 A Presumptively it was meth.

19 Q Presumptively.

20 A On the side of the road on a traffic stop,
21 it was presumptively meth.

22 Q Okay. Have you ever made an arrest where
23 you thought something was methamphetamine and you
24 sent it to a lab and it came back as something other
25 than methamphetamine?

CROSS EXAMINATION OF Z. MCCALL BY MS. PORTER

1 MS. BLUNDY: Objection. Relevancy to the case.

2 THE COURT: Overruled.

3 MS. PORTER: That means answer the question.

4 A I am sorry. I have never made an arrest
5 where there was something -- if there's any question
6 to it in my experience in five years, I always send
7 it off and then arrest afterwards. I send it off,
8 and then once the results come back I issue an
9 arrest warrant if narcotics are present.

10 Q Okay. As a sergeant you have officers
11 underneath you, correct?

12 A Correct.

13 Q Have any of them ever made an arrest for
14 methamphetamine and a lab report came back for
15 something other than methamphetamine?

16 A Yes.

17 Q So, that is not uncommon in law
18 enforcement?

19 A No.

20 Q All right. The pipes that we saw in this
21 video, they weren't tested by the lab, were they?

22 A I'm not sure.

23 Q Okay. So, I just want to reiterate, you
24 did testify in response to Ms. Blundy's questions
25 that there was, inside of this pipe, a crystal like

REDIRECT EXAMINATION OF Z. MCCALL BY MS. BLUNDY

1 substance that you believed to be methamphetamine?

2 A Correct.

3 Q We can't verify that today, can we?

4 A I'm not sure. I don't know how to answer
5 that question.

6 Q Okay.

7 MS. PORTER: I have no further questions for
8 this witness. Thank you, Sergeant McCall.

9 THE COURT: Anything further for this witness?

10 MS. BLUNDY: Just a few follow-up, Your Honor.

11 REDIRECT EXAMINATION

12 BY MS. BLUNDY:

13 Q Officer McCall, do you recall the
14 Defendant having any trouble locating his
15 identifying paperwork for the vehicle? Did he know
16 where to reach --

17 MS. PORTER: Objection, leading.

18 THE COURT: Rephrase your question.

19 BY MS. BLUNDY:

20 Q What did you observe him do when Officer
21 Hernandez asked him for his license, registration,
22 and insurance?

23 A When I approached the vehicle he opened up
24 the glove compartment and started looking for
25 paperwork.

REDIRECT EXAMINATION OF Z. MCCALL BY MS. BLUNDY

1 Q There was some discussion about a grinder.
2 During your search, where did you find that grinder;
3 or do you remember?

4 A I do. That grinder was located in the
5 driver's side door compartment.

6 Q And when you -- you, in fact, opened the
7 grinder; right?

8 A Uh-huh. (Indicating affirmatively.)

9 Q When you opened the grinder, did you see
10 any marijuana like materials inside the grinder?

11 A I did.

12 Q Let's talk a little bit about when you ran
13 Kimber around the car. Can you explain for the jury
14 why she didn't do a full pass around the entire
15 vehicle?

16 A Yes. So, when you do a free air sniff on
17 a vehicle, like I said, I always start off at the
18 passenger's side front bumper, not at the door, at
19 the passenger's side front bumper, and bring her
20 around the front of the car, down the driver's side,
21 and then back around up the front.

22 So, if she indicates on it prior to
23 making, I'll take my K9 unit two laps around the
24 vehicle. If she doesn't indicate on the vehicle
25 within those two laps, she gets put back up and it

REDIRECT EXAMINATION OF Z. MCCALL BY MS. BLUNDY

1 is essentially a done thing.

2 If she indicates on it prior to that,
3 I don't continue around the vehicle because -- and
4 it goes way into -- a psychological thing with the
5 dog, but if I take her past the source and instruct
6 her to keep on looking for narcotics, then she
7 thinks that she's doing something wrong. So, once
8 she indicates and sits at the source, I reward her
9 and she gets put up. She doesn't get brought back
10 around two or three times around the vehicle because
11 she's already sitting at the source.

12 That can be a negative behavior trait
13 for them if you take them off of the source when
14 they know that there's no question to it. So --

15 Q Since the window was down on the driver's
16 side and the grinder was in the driver's side door,
17 was it possible that K9 Kimber alerted on that side
18 because of those reasons?

19 MS. PORTER: Objection, calls for speculation.

20 THE COURT: Overruled.

21 THE WITNESS: Yes, that's possible.

22 BY MS. BLUNDY:

23 Q Now, based on your training and
24 experience, and you have been qualified as an
25 expert, if there's multiple drugs inside a car,

REDIRECT EXAMINATION OF Z. MCCALL BY MS. BLUNDY

1 there's multiple sites for a source, does it matter
2 where K9 Kimber would alert on the car?

3 A No.

4 Q In fact, she would just give a generalized
5 alert?

6 A That's correct, yes.

7 Q Back to the search, I had a couple of
8 questions for you. What items did you find inside
9 the vehicle that would have spoiled, meaning they
10 hadn't been there very long?

11 A There was multiple grocery bags inside the
12 vehicle that had sensitive items that needed to be
13 refrigerated. I can't remember all of them exactly.
14 But I know that there was some meat in there and
15 possibly some salad stuff that needed to be
16 refrigerated before it went bad.

17 Q When you found one of the pipes, where was
18 that in proximity with the groceries?

19 A I believe that it was located near or
20 inside one of the grocery bags.

21 Q Okay. When you confiscated the pipe, and
22 when you confiscated the oil burner, is that all you
23 do with them; what happens to them next?

24 A Officer Hernandez took custody of them and
25 they get sent for testing.

REDIRECT EXAMINATION OF Z. MCCALL BY MS. BLUNDY

1 Q Done at a lab, correct?

2 A Correct.

3 Q You do not do roadside testing?

4 A No, we do not.

5 Q And why is that?

6 A Due to the increase in narcotics that can
7 possibly hurt us on the side of the road doing field
8 testing, it is just too dangerous. A lot of
9 narcotics nowadays are laced with different things
10 that can possibly cause us to overdose on the side
11 of the road, so any narcotics that we find get put
12 in a BEST kit and get sent to a lab for testing, and
13 that just saves us from possibly being exposed to an
14 overdose.

15 Q What if any weighing of the drugs do you
16 even do on the roadside anymore?

17 A Can you rephrase the question?

18 Q Do you weigh the drugs on the roadside
19 anymore?

20 A Not typically, no, not unless there is a
21 large amount.

22 Q And even still you would send it to the
23 lab for an official calibrated lab scale weight,
24 correct?

25 A Correct, yes.

DIRECT EXAMINATION OF B. CARMICHAEL BY MS. BLUNDY

1 MS. BLUNDY: Okay. I have no further questions
2 for this witness.

3 THE COURT: Anything further from this witness?

4 MS. PORTER: None, Your Honor.

5 THE COURT: Thank you, Officer, you can step
6 down.

7 THE WITNESS: Thank you, Your Honor.

8 MS. BLUNDY: Next the State would like to call
9 Officer Carmichael to the stand, please.

10 Thereupon,

11 BRENDEN CARMICHAEL
12 was called as a witness, having been first duly sworn,
13 was examined and testified as follows:

14 DIRECT EXAMINATION

15 BY MS. BLUNDY:

16 Q If you will state your full name for the
17 record?

18 A Brenden Carmichael.

19 Q Officer Carmichael, where do you work?

20 A Walhalla Police Department.

21 Q How long have you worked for the Walhalla
22 Police Department?

23 A Since September 2017.

24 Q And what is your rank with the Walhalla
25 Police Department?

DIRECT EXAMINATION OF B. CARMICHAEL BY MS. BLUNDY

1 A Corporal.

2 Q And as a corporal, what do some of your
3 duties entail?

4 A I oversee my shift, ensure that we make
5 sound decisions on traffic stops, calls for service.

6 Q Back in April -- April the 6th of 2019,
7 were you a relatively new officer back then?

8 A Yes, ma'am.

9 Q And what military experience do you have?

10 A I have been in the military since March of
11 2012.

12 Q And are you a reserve officer for the
13 military?

14 A Yes, ma'am.

15 Q And that is still to this day, correct?

16 A Correct.

17 Q Do you recall being on duty on April the
18 6th of 2019?

19 A Yes, ma'am.

20 Q And on that date did you assist in the
21 traffic stop with Officer Hernandez and Officer
22 McCall?

23 A Yes, ma'am.

24 Q You were not the primary officer on that
25 case, correct?

DIRECT EXAMINATION OF B. CARMICHAEL BY MS. BLUNDY

1 A Correct.

2 Q You were more or less a standby officer?

3 A Correct.

4 Q I am going to show you something that has
5 been marked as State's Exhibit No. 6. What is this
6 document?

7 A This is a vehicle tow sheet.

8 Q And do you recognize it?

9 A Yes, ma'am.

10 Q Is it substantially in the same condition
11 as the day you filled it out?

12 A Yes, ma'am.

13 Q Has it been altered or changed in any way
14 prior to trial?

15 A No, ma'am.

16 Q Is it relating specifically to the case
17 against Randy Cantrell?

18 A Yes, ma'am.

19 Q And on what date did you fill it out?

20 A April 6, 2019.

21 MS. BLUNDY: Okay. The State would move to
22 admit Exhibit No. 6.

23 THE COURT: Any objection?

24 MS. PORTER: No objection.

25 THE COURT: So, State's Exhibit No. 6 would be

DIRECT EXAMINATION OF B. CARMICHAEL BY MS. BLUNDY

1 admitted without objection.

2 *(Whereupon, State's Exhibit No(s). 6*
3 *marked for identification and received in*
4 *evidence.)*

5 BY MS. BLUNDY:

6 Q What type of car was it?

7 A It was a 2002 Hyundai Sonata.

8 Q Okay. And were you present when the
9 Defendant was pulled over?

10 A No, ma'am.

11 Q You arrived on scene later?

12 A Yes, ma'am.

13 Q Were you aware of how many people were
14 inside that vehicle?

15 A I don't recall exactly knowing when I
16 arrived on scene.

17 Q Okay. So what were you tasked with doing
18 in this case specifically?

19 A I was asked to come out. And after
20 everything was said and done I was tasked with
21 filling out the inventory sheets.

22 Q And when are the inventory sheets done?

23 A They are done when we impound a vehicle
24 due to an arrest typically, or a vehicle that is in
25 the roadway or something like that.

DIRECT EXAMINATION OF B. CARMICHAEL BY MS. BLUNDY

1 Q Okay. So, the vehicle was impounded in
2 this case?

3 A Yes, ma'am.

4 Q And what notations did you make as to
5 personal items that were inside the vehicle?

6 A There was clothes, shoes, suitcases.

7 Q Do you list ever single item that is
8 inside the vehicle?

9 A No, ma'am.

10 Q Does this sheet serve as protection for
11 the department if something were to go missing after
12 the vehicle were to be impounded?

13 A Yes, ma'am.

14 Q When a tow slip is done, is it because the
15 person can't drive the vehicle off of where they
16 have stopped?

17 A Typically, yes.

18 Q And why would that be? Why couldn't they
19 drive the vehicle off from where they have been
20 stopped usually?

21 A We made a custodial arrest, they had
22 suspended license, or narcotics were found inside
23 the vehicle.

24 Q So, if someone didn't have a license, they
25 shouldn't have been driving the car in the first

CROSS EXAMINATION OF B. CARMICHAEL BY MS. PORTER

1 place, right?

2 A Correct.

3 Q They certainly can't then drive the car
4 after you have received that knowledge, right?

5 A Correct.

6 Q And so then these slips are done?

7 A Yes, that's correct.

8 MS. BLUNDY: Thank you. I have no further
9 questions for this witness. Please answer anything
10 Ms. Porter may have.

11 THE COURT: Ms. Porter.

12 MS. PORTER: Thank you, Your Honor. And thank
13 you for being here today Corporal Carmichael.

14 CROSS EXAMINATION

15 BY MS. PORTER:

16 Q Just very briefly. Ms. Blundy asked you
17 if you listed in your inventory sheet, which is
18 State's Exhibit 6 if you listed everything that was
19 in the car, and you said no; is that correct?

20 A Yes, ma'am.

21 Q It would have been very difficult to list
22 everything that was in that car, correct.

23 A Yes, ma'am.

24 Q There was a whole bunch of stuff in that
25 car?

DIRECT EXAMINATION OF J. HERNANDEZ BY MS. BLUNDY

1 A Yes, ma'am.

2 Q And sitting here today, you probably can't
3 even remember everything that was in there?

4 A No, ma'am.

5 MS. PORTER: Okay. That is all of the questions
6 that I have of this witness.

7 THE COURT: Anything further from this witness?

8 MS. BLUNDY: Nothing further for this witness,
9 Your Honor.

10 THE COURT: Thank y'all. You may step down.

11 **Thereupon,**

12 JUAN HERNANDEZ

13 was called as a witness, having been first duly sworn,
14 was examined and testified as follows:

15 DIRECT EXAMINATION

16 BY MS. BLUNDY:

17 Q Please state your name for the record?

18 A Juan Hernandez.

19 Q Officer Hernandez, where do you work?

20 A Seneca Police Department.

21 Q And where did you work, with what
22 department, prior to going to Seneca?

23 A Walhalla Police Department.

24 Q And how long have you been in law
25 enforcement?

DIRECT EXAMINATION OF J. HERNANDEZ BY MS. BLUNDY

1 A Approximately seven and a half years.

2 Q And on the date of April the 6th of 2019,
3 which department were you working for?

4 A Walhalla Police Department.

5 Q And do you recall being on duty that day?

6 A Yes, ma'am.

7 Q What did you notice initially about the
8 Defendant's car?

9 A The taillight was out.

10 Q And who was driving the car?

11 A Mr. Cantrell.

12 Q Were there any other occupants inside that
13 car?

14 A No, ma'am.

15 Q Where did you pull him over at?

16 A Main Street. I believe it is going to be
17 the Tiger Wash. It is a little laundromat on West
18 Main.

19 Q In fact, he told you that he was heading
20 to do laundry, correct?

21 A Yes, ma'am.

22 Q What county did you pull him over in?

23 A Oconee County.

24 Q And what State?

25 A South Carolina.

DIRECT EXAMINATION OF J. HERNANDEZ BY MS. BLUNDY

1 Q What did he tell you when you got him out
2 of the car immediately about his driver's license?

3 A That he didn't have one.

4 Q So what were you going to charge him with?

5 A Due to -- after running him through
6 dispatch, it showed that he was a habitual traffic
7 offender.

8 Q So even though he told you that he didn't
9 have a license, you still confirmed that with your
10 dispatch?

11 A Yes.

12 Q And that came back true?

13 A Yes, ma'am.

14 Q He did not in fact have a driver's
15 license?

16 A Yes, ma'am, he did not have a license.

17 Q When someone doesn't have a driver's
18 license and they are operating a motor vehicle in
19 the state of South Carolina, do you have obligations
20 at that point to tow the vehicle?

21 A Yes, ma'am.

22 Q Sometimes you ever release the vehicle to
23 somebody else, like let's say a family member or
24 something like that?

25 A Yes, ma'am.

DIRECT EXAMINATION OF J. HERNANDEZ BY MS. BLUNDY

1 Q But is that really your protocol?

2 A No, ma'am.

3 Q What is the protocol?

4 A If we stop somebody for, for example, DUS
5 first, usually if it is their first offense --

6 Q Okay, don't get into the amount of
7 offenses. Just please answer the question; what is
8 the protocol?

9 A We tow the vehicle.

10 Q You tow the vehicle?

11 A Yes, ma'am.

12 Q And when you tow the vehicle, are slips
13 done?

14 A Yes, ma'am.

15 Q And why is that?

16 A It is to inventory most of the items, or
17 majority of the items, or some of the items that
18 would have some type of value.

19 Q Were you the primary officer in this case?

20 A Yes, ma'am.

21 Q Were you aware that Officer Carmichael
22 came to assist?

23 A Yes, ma'am.

24 Q Were you aware that he filled out the tow
25 slip for your case?

DIRECT EXAMINATION OF J. HERNANDEZ BY MS. BLUNDY

1 A Yes, ma'am.

2 Q Who did you list as the operator of the
3 car?

4 A I apologize, ma'am, I can't really see.

5 Q Can you see right here?

6 A Yes, ma'am. It says, Randy Cantrell.

7 Q Okay. And on what date did he fill this
8 slip out?

9 A The 16th I believe.

10 Q Of April?

11 A Yes, ma'am.

12 Q Okay. Around what time of day was it? Do
13 you want me to bring it closer?

14 A Yes, ma'am, please, if you don't mind. I
15 apologize. Thank you. 10:10.

16 Q Does that sound about right from what you
17 remember when you pulled him over?

18 A Yes, ma'am. Yes, ma'am.

19 Q Even though you complete an inventory,
20 were there other reasons why you were going to do a
21 search on this car?

22 A Yes, ma'am.

23 Q What did the Defendant immediately tell
24 you about the marijuana in the car?

25 A That there was some marijuana in the

DIRECT EXAMINATION OF J. HERNANDEZ BY MS. BLUNDY

1 vehicle, and he had pointed to where it was at.

2 Q And did he know specifically where it was?

3 A Yes, ma'am.

4 Q Where did he tell you the marijuana was?

5 A He pointed towards the driver's side area.

6 A little more towards, I guess, the console area.

7 Q Did he in fact tell you that it was in the
8 passenger floorboard?

9 A I don't recall.

10 Q Okay. We will watch the video in a
11 minute.

12 A Yes, ma'am.

13 Q Do you recall him mentioning the grinder,
14 or is that something that you saw?

15 A That was something I saw.

16 Q And you saw that when you stepped out of
17 the vehicle?

18 A Yes, ma'am.

19 Q And so you knew where that was located?

20 A Yes, ma'am.

21 Q Okay. Based on his admission that there
22 was marijuana in the vehicle, what does that tell
23 you you can do with the car as an officer?

24 A It gives me probable cause to search the
25 vehicle.

DIRECT EXAMINATION OF J. HERNANDEZ BY MS. BLUNDY

1 Q The entire vehicle, correct?

2 A Yes, ma'am.

3 Q So he admitted that there was drugs in the
4 car and that gives you the right to search the
5 entire vehicle?

6 A Yes, ma'am.

7 Q So, regardless of the inventory, which you
8 could search the vehicle because of that, you also
9 could search the vehicle because of the marijuana;
10 am I right?

11 A Yes, ma'am.

12 Q So at that point, were you leaning towards
13 searching the vehicle?

14 A Yes, ma'am.

15 Q But you had another officer arrive to
16 assist you. Who was that?

17 A Officer McCall.

18 Q And when Officer McCall arrived, did you
19 tell him or was he aware of the admission about
20 marijuana inside the vehicle?

21 A I don't recall.

22 Q You can't remember if you told him about
23 it?

24 A Yes, ma'am, I can't recall that.

25 Q Did you ask him to go ahead and run the

DIRECT EXAMINATION OF J. HERNANDEZ BY MS. BLUNDY

1 drug dog?

2 A Yes, ma'am.

3 Q Okay. And he, in fact, did that; correct?

4 A Yes, ma'am.

5 Q And what was relayed to you about whether
6 or not the dog also alerted to the car?

7 A Can you repeat the question again, ma'am?

8 Q Sure. What was relayed to you about
9 whether or not Kimber alerted to the car?

10 A The dog indicated.

11 Q Okay. Who searched the vehicle?

12 A Officer McCall.

13 Q And you were right there, correct?

14 A Yes, ma'am.

15 Q You never left that car?

16 A No, ma'am.

17 Q Never walked down the street?

18 A No, ma'am.

19 Q Never went off to make phone calls?

20 A No, ma'am.

21 Q You were right there on scene?

22 A Yes, ma'am.

23 Q Were you able to observe Officer McCall
24 handle the pipe in this case?

25 A Yes, ma'am.

DIRECT EXAMINATION OF J. HERNANDEZ BY MS. BLUNDY

1 Q Were you able to observe him handle the
2 burner in this case?

3 A Yes, ma'am.

4 Q In fact, were you present when he pulled
5 out the machetes, the brass knuckles, and the other
6 paraphernalia inside that car?

7 A Yes, ma'am.

8 Q Did he alter or change any of those items
9 from the moment he pulled them out of the car to the
10 moment he placed them on the hood?

11 A No, ma'am.

12 Q I'm showing you what has been marked as
13 State's Exhibits 9, 10, and 11. What are these?

14 A Exhibit 9 shows three pipes, two glass,
15 one metal. Two pipes that are made of glass and
16 commonly used to smoke methamphetamine. Exhibit 11
17 and 10 show the glass pipe with a white crystal like
18 substance inside the stem.

19 Q Okay. Are they a fair and accurate
20 representation as of the date and time that they
21 were taken?

22 A Yes, ma'am.

23 Q Have they been altered or changed in any
24 way prior to trial?

25 A No, ma'am.

DIRECT EXAMINATION OF J. HERNANDEZ BY MS. BLUNDY

1 MS. BLUNDY: State would move to admit Exhibit
2 9, 10, and 11.

3 THE COURT: Any objection?

4 MS. PORTER: No objection.

5 THE COURT: Okay. State's 9, 10, and 11 will be
6 admitted without objection.

7 *(Whereupon, State's Exhibit No(s). 9-11*
8 *marked for identification and received in*
9 *evidence.)*

10 BY MS. BLUNDY:

11 Q How many pipes were found in this case?

12 A Three, ma'am.

13 Q What was significant to you regarding the
14 middle pipe, the pipe with the brown bowl and the
15 white stem?

16 A The one pipe in the center is usually,
17 when you see one brand new, like they usually sell
18 them at gas stations, they are very clear just like
19 you look at a glass. And that is extremely cloudy.
20 And of course there is some crystal like substance
21 inside the bowl. Upon looking inside the stem you
22 can see a lot of crystals inside of it.

23 Q Okay. Was that you trying to get a shot
24 of what you observed inside the stem?

25 A Yes, ma'am.

DIRECT EXAMINATION OF J. HERNANDEZ BY MS. BLUNDY

1 Q And you observed a white crystal like
2 substance?

3 A Yes, ma'am.

4 Q Looking closely at the end of that stem,
5 can you see particles of a white crystal like
6 substance?

7 A Yes, ma'am.

8 Q Based on your training and your experience
9 as an officer, what did you believe that to be?

10 A I believed that to be methamphetamine.

11 Q Based on that, did you send that pipe off
12 to be tested at the lab?

13 A Yes, ma'am.

14 Q Did you try yourself to scrape any of that
15 substance out of that pipe?

16 A No, ma'am.

17 Q There was one more item in here. What was
18 this?

19 A Marijuana. Or from what the Defendant
20 told me, it was marijuana.

21 Q Okay. But you did not test that?

22 A No, ma'am.

23 Q You did not charge that?

24 A No, ma'am.

25 Q I'm showing you what has been marked as

DIRECT EXAMINATION OF J. HERNANDEZ BY MS. BLUNDY

1 State's Exhibit No. 12. What is this?

2 A This is a digital scale.

3 Q And it is a picture of it, correct?

4 A Yes, ma'am.

5 Q Is it a fair and accurate representation
6 of the date and time that it was taken?

7 A Yes, ma'am.

8 Q Has it been altered or changed in any way
9 prior to trial?

10 A No, ma'am.

11 Q Was this an item that was located inside
12 the Defendant's vehicle?

13 A Yes, ma'am.

14 MS. BLUNDY: State moves to admit Exhibit 12.

15 THE COURT: Any objection?

16 MS. PORTER: I don't believe that a proper
17 foundation has been laid. We don't know where this
18 was retrieved from.

19 THE COURT: Lay some more foundation if you
20 will.

21 BY MS. BLUNDY:

22 Q Who did the search of the vehicle?

23 A Officer McCall.

24 Q And do you recall specifically where this
25 was found inside the vehicle?

DIRECT EXAMINATION OF J. HERNANDEZ BY MS. BLUNDY

1 A This specific scale, no, ma'am.

2 Q But he retrieved it from the vehicle?

3 A Yes, ma'am.

4 Q And he placed it where?

5 A On the trunk of the vehicle.

6 Q Okay. And you were tasked with watching

7 over the items that were placed on the trunk?

8 A Yes, ma'am.

9 MS. BLUNDY: All right. State would move to
10 admit. It is a photograph.

11 MS. PORTER: I would still object. The officer
12 cannot testify to where it was retrieved from, which
13 I do believe is relevant based on the fact that this
14 is a constructive possession case.

15 THE COURT: Overruled.

16 *(Whereupon, State's Exhibit No(s). 12*
17 *marked for identification and received in*
18 *evidence.)*

19 BY MS. BLUNDY:

20 Q What do scales mean specifically to you in
21 a drug case?

22 A They are pretty common, as far as finding
23 it with narcotics. As far as weighing narcotics
24 out, either to buy or to sell.

25 Q Looking at this photograph, there seems to

DIRECT EXAMINATION OF J. HERNANDEZ BY MS. BLUNDY

1 be some particles on top of the scale. Did you
2 observe that when you handled the scale?

3 A Yes, ma'am.

4 Q Those are not scratch marks, correct?

5 A No, ma'am.

6 Q I am showing you what has been marked as
7 State's Exhibit 13 and Exhibit 14, what are these?

8 A It is a picture of an oil burner with a
9 crystal like substance and Q tips, it looks like Q
10 tips.

11 Q How do you recognize that item?

12 A It was in the Defendant's vehicle, Officer
13 McCall brought it out from inside.

14 Q Okay. Are those -- is that a fair and
15 accurate representation as of the date and the time
16 that these photographs were taken?

17 A Yes, ma'am.

18 Q And have they been altered or changed in
19 any way prior to trial?

20 A No, ma'am.

21 MS. BLUNDY: State would move to admit Exhibits
22 13 and 14.

23 THE COURT: Any objection?

24 MS. PORTER: None, Your Honor.

25 THE COURT: State's Exhibits 13 and 14 would be

DIRECT EXAMINATION OF J. HERNANDEZ BY MS. BLUNDY

1 admitted without objection.

2 *(Whereupon, State's Exhibit No(s). 13-14*
3 *marked for identification and received in*
4 *evidence.)*

5 MS. BLUNDY: Could we maybe turn the light off?

6 BY MS. BLUNDY:

7 Q What did you observe in the top of this
8 burner?

9 A A white powder crystal like substance.

10 Q Is that the only thing that you observed
11 on top of the burner?

12 A No, ma'am.

13 Q What else did you observe in the burner?

14 A It appeared to be the tips of Q tips or
15 small cotton balls.

16 Q And based on your training and experience
17 as an officer, why would there be cotton inside of
18 the burner?

19 A The burner, most people also like to, I
20 guess you would say, inject themselves with
21 methamphetamine. They use the cotton or Q tips, as
22 far as a filter whenever they put the syringe in it.

23 Q As a filter?

24 A Yes, ma'am.

25 Q Why in a burner, do they heat it up?

DIRECT EXAMINATION OF J. HERNANDEZ BY MS. BLUNDY

1 A Yes, ma'am.

2 Q And then what do they do next with it,
3 typically?

4 A As far as heating it up and then -- they
5 usually, from that point kind of let it cool down I
6 guess, and then inject themselves.

7 Q So it more becomes in a liquid form during
8 the injection process?

9 A Yes, ma'am.

10 Q Okay. That is just another shot, side
11 shot of the burner, correct?

12 A Yes, ma'am.

13 Q What is the design on the burner?

14 A It is a camouflage.

15 Q I am showing you what has been marked as
16 State's Exhibits 15 and 16. What are these?

17 A These are photos that we have taken.

18 Q How do you recognize them?

19 A The swords, the scales, the pipes, as well
20 as the brass knuckles and the scales.

21 Q Are they a fair and accurate
22 representation of what was retrieved from the
23 Defendant's vehicle?

24 A Yes, ma'am.

25 Q Did you, in fact, photograph these items

DIRECT EXAMINATION OF J. HERNANDEZ BY MS. BLUNDY

1 on the hood of your car?

2 A Yes, ma'am.

3 MS. BLUNDY: The State would move to admit
4 State's Exhibits 15 and 16.

5 THE COURT: Any objection?

6 MS. PORTER: None, Your Honor.

7 THE COURT: State's Exhibits 15 and 16 would be
8 admitted without objection.

9 *(Whereupon, State's Exhibit No(s). 15-16*
10 *marked for identification and received in*
11 *evidence.)*

12 BY MS. BLUNDY:

13 Q As a trained officer, what do the torches
14 mean to you?

15 A The torches are most commonly used, used
16 to smoke narcotics.

17 Q And this item right here, what is that; is
18 that the torch?

19 A Yes, ma'am.

20 Q Where were the brass knuckles located?

21 A They were on -- located on the Defendant,
22 in one of his pockets.

23 Q Do you recall where the knives were?

24 A Yes, ma'am. I do believe one was located
25 underneath the driver's seat. The other was located

DIRECT EXAMINATION OF J. HERNANDEZ BY MS. BLUNDY

1 in the passenger's side.

2 Q Okay. And this item was where?

3 A In the driver's side door pocket.

4 Q And what is this item?

5 A It is a grinder.

6 Q And do you recall where this item was
7 found?

8 A Yes, ma'am. It was underneath the
9 driver's seat.

10 Q Why do you think that there was so many
11 cell phones in this -- or what does that --

12 MS. PORTER: Objection.

13 MS. BLUNDY: I'll rephrase the question.

14 BY MS. BLUNDY:

15 Q What do multiple cell phones mean to you
16 when they are found along with drugs?

17 A Along with drugs as well as with scales --

18 MS. PORTER: Objection. I have a matter of law
19 that I would like to take up.

20 THE COURT: All right. Madam Bailiff, would you
21 take our jury to the jury room please?

22 (The jury exits the courtroom at 10:24
23 a.m.)

24 THE COURT: Yes, ma'am.

25 MS. PORTER: Thank you, Your Honor. I believe

DIRECT EXAMINATION OF J. HERNANDEZ BY MS. BLUNDY

1 this line of questioning is going down the path of
2 suggesting that he is involved in distributing
3 methamphetamine. I believe that is more prejudicial
4 than probative. It is not relevant to whether or not
5 he possessed methamphetamine. If Ms. Blundy has an
6 alternate explanation for the question, I am happy to
7 hear it. But I don't know what that question would
8 lead to other than being involved in the distribution
9 of narcotics.

10 THE COURT: Ms. Blundy.

11 MS. BLUNDY: I think, Your Honor, we have not
12 discussed him being charged with distribution. But I
13 do think that the officer can testify based on his
14 training and experience as to what multiple cell
15 phones coupled with drugs mean to him and why he
16 photographed them and why he took them from the
17 vehicle.

18 THE COURT: Well, the cell phone photographs are
19 already in evidence, so the officer would be entitled
20 to explain why he took them into evidence. However,
21 stay away from any accusation that distribution was
22 in process because the Defendant is not charged with
23 distribution. So, I will let you, in a general sense
24 I will let you ask the question why he considered
25 that significant and why he took it into evidence.

PROFFERED DIRECT EXAMINATION OF J. HERNANDEZ BY MS.
BLUNDY

1 But stop the line of questioning at that point.

2 MS. PORTER: Okay. Can we also instruct the
3 witness not to mention distribution or suspicion of
4 distribution?

5 THE COURT: Let me -- ask the question and let
6 me hear what the witness is going to say. That would
7 be the easiest way to do this. Proffer the question.

8 PROFFERED DIRECT EXAMINATION OF J. HERNANDEZ BY MS.

9 BLUNDY

10 PROFFERED DIRECT EXAMINATION

11 BY MS. BLUNDY:

12 Q Officer Hernandez, you removed multiple
13 cell phones from the vehicle and photographed them.
14 Why would you have done that? What did that mean to
15 you?

16 A Along with the scales and the -- from what
17 Officer McCall had recovered, so finding the
18 sandwich bags, multiple sandwich bags, and the pipes
19 as well, and the weapons, use of -- I guess in
20 contact with multiple people, I guess, to buy
21 narcotics I guess.

22 THE COURT: I'll allow that question. All
23 right. Let's get our jury back.

24 THE WITNESS: Can I say burner phones? That is
25 kind of a quicker way to say it. I don't know.

CONTINUED DIRECT EXAMINATION OF J. HERNANDEZ BY MS.
BLUNDY

1 (The jury enters the courtroom at 11:29
2 a.m.)

3 THE COURT: All right. Ms. Blundy, proceed.

4 CONTINUED DIRECT EXAMINATION

5 BY MS. BLUNDY:

6 Q Officer Hernandez, several phones were
7 removed from the vehicle as well. What did those
8 mean to you, found along with the drugs?

9 A Along with the scales, the sandwich bags,
10 the pipes, and the weapons, would indicate I guess
11 that was a form of, way of possibly how he got in
12 contact with possibly where he got the drugs from.

13 Q Okay. Where were these items taken to?

14 A The Seneca Police Department.

15 Q So the first one was on the hood, and that
16 was back at the police department?

17 A Yes, ma'am.

18 Q Okay. Officer Hernandez, I'm showing you
19 what has been marked as State's Exhibit No. 17; what
20 is that?

21 A A drug analysis request.

22 Q And who filled it out?

23 A That would be me.

24 Q And on what date did you fill it out?

25 A 4-6-19.

CONTINUED DIRECT EXAMINATION OF J. HERNANDEZ BY MS.
BLUNDY

1 Q Date of incident, correct?

2 A Yes, ma'am.

3 Q And why do you fill this out?

4 A This is to -- in order to send off an
5 order to get drug tested, or to get something tested
6 for narcotics.

7 Q Okay. Is that document in substantially
8 the same condition as the day you filled it out?

9 A Yes, ma'am.

10 Q Has it been altered or changed in any way
11 prior to trial?

12 A No, ma'am.

13 MS. BLUNDY: State would move to admit State's
14 Exhibit 17.

15 THE COURT: Any objection?

16 MS. PORTER: None, Your Honor.

17 THE COURT: States Exhibit No. 17 would be
18 admitted without objection.

19 *(Whereupon, State's Exhibit No(s). 17*
20 *marked for identification and received in*
21 *evidence.)*

22 BY MS. BLUNDY:

23 Q Can you explain to the jury what the
24 control number is?

25 A Control number is -- it goes along with

CONTINUED DIRECT EXAMINATION OF J. HERNANDEZ BY MS.
BLUNDY

1 the bag that you put the items in that you want
2 tested. It is basically kind of a -- it is almost
3 like a receipt for the items.

4 Q Okay. And who is the subject in this
5 case?

6 A The Defendant, Mr. Randy -- I am going to
7 redact --

8 MS. BLUNDY: And, Judge, I am going to redact
9 his Social Security number real quick. Do we have a
10 marker?

11 MS. PORTER: No objections.

12 MS. BLUNDY: Okay.

13 (Redaction made to exhibit.)

14 BY MS. BLUNDY:

15 Q What were the specimens that you had
16 listed for testing?

17 A Two items, a glass pipe with crystal like
18 substance inside, an oil burner with crystal like
19 substance on top of the burner.

20 Q I am showing you what has been marked as
21 State's Exhibit No. 18. What is it?

22 A The items that were on the list.

23 Q Okay. And can you explain what is inside
24 the packaging?

25 A Yes, ma'am, the glass pipe and the oil

CONTINUED DIRECT EXAMINATION OF J. HERNANDEZ BY MS.
BLUNDY

1 burner.

2 Q Are those the items that were in your
3 care, custody, and control when you received them
4 from Officer McCall from inside the Defendant's
5 vehicle?

6 A Yes, ma'am.

7 Q When they were in your care, custody, and
8 control, did you alter or change those items in any
9 way?

10 A No, ma'am.

11 Q Did you tamper with them prior to placing
12 them into the evidence bag?

13 A No, ma'am.

14 Q Okay. Can you explain for the jury a
15 little bit about the process of how you control the
16 evidence?

17 A Whenever we arrive on scene or whatever,
18 we arrest somebody, we find items like this, we put
19 them in an evidence bag and we mark the time.
20 Whenever we take it back -- we secure it first in
21 the trunk or some type of evidence box. I
22 personally have an evidence box in my patrol car.
23 And then transport it back to the police department.
24 And you prepare the bags. As a matter of fact, this
25 bag right here, it comes in an envelope. I guess

CONTINUED DIRECT EXAMINATION OF J. HERNANDEZ BY MS.
BLUNDY

1 it's given by the State. It comes with a bunch of
2 other paperwork that you have got to fill out.

3 You put the narcotics that you find,
4 or the possible narcotics that you find in the same
5 BEST pack, rip off the top seal of it, and seal all
6 of the bag. And you keep the receipt, so to speak,
7 and you put it in your report. And you just, you
8 keep it with you until you actually get, I guess it
9 is the test back from Anderson County.

10 Q And where did you take the specific drugs
11 and items after you had placed them in the BEST
12 pack?

13 A They go into the secure evidence locker.
14 It is a temporary secure evidence locker where the
15 evidence tech takes over.

16 Q And where is that evidence locker located?

17 A At this time, the Walhalla Police
18 Department.

19 Q Okay. I'm showing you what has been
20 marked as State's Exhibit 19; what is this?

21 A This is the -- this is the receipt, so to
22 speak, the control number for the BEST pack.

23 Q How do you recognize it?

24 A Control number here. And it says,
25 Receipt. And then it, of course, it has an

CONTINUED DIRECT EXAMINATION OF J. HERNANDEZ BY MS.
BLUNDY

1 explanation of what was inside the bag.

2 Q And who filled out that receipt?

3 A That would be me.

4 Q Has that been altered or changed in any
5 way prior to trial?

6 A No, ma'am.

7 Q And this is a copy of that receipt?

8 A Yes, ma'am.

9 Q But is that an exact replica of what the
10 receipt was?

11 A Yes, ma'am, the top portion, yes.

12 Q And what is the bottom portion?

13 A The two bottom portions, along with --
14 they go with the paperwork on this. It is the case
15 number that goes along with it.

16 Q And why do you make a copy of that?

17 A It is to, I guess, make sure that you have
18 it altogether so whenever you are reviewing a case
19 you have it altogether. A paper trail.

20 Q And what do the numbers mean to you?

21 A 19000158 is the case number that we had.
22 Also the control number here. And this right here
23 is basically the serial number for -- that was the
24 paperwork that was filed with it.

25 MS. BLUNDY: Okay. The State would move to

CONTINUED DIRECT EXAMINATION OF J. HERNANDEZ BY MS.
BLUNDY

1 admit Exhibit No. 19.

2 THE COURT: Any objection?

3 MS. PORTER: None, Your Honor.

4 THE COURT: State's Exhibit No. 19 would be
5 admitted without objection.

6 *(Whereupon, State's Exhibit No(s). 19*
7 *marked for identification and received in*
8 *evidence.)*

9 *(Whereupon, State's Exhibit No(s). 20*
10 *marked for identification.)*

11 BY MS. BLUNDY:

12 Q So, you were keeping track of everything
13 in this case?

14 A Yes, ma'am.

15 Q Making sure that the numbers were assigned
16 to the correct items, to the correct person?

17 A Yes, ma'am.

18 Q I'm showing you what has been marked as
19 State's Exhibit 20. What is that document?

20 A This is the Form B that goes with the BEST
21 pack. This is actually one of the paperworks that
22 actually goes with that BEST pack in the envelope
23 that you get. You fill out all of the information
24 on here, and that is here, and you give a brief
25 explanation of what is actually in the BEST pack,

CONTINUED DIRECT EXAMINATION OF J. HERNANDEZ BY MS.
BLUNDY

1 what time of -- date of, and where it is actually
2 stored.

3 Q Okay. And what items are listed in your
4 chain of custody?

5 A Glass pipe with a crystal like substance
6 inside, an oil burner with a crystal like substance
7 on top of the oil -- on top of the burner.

8 Q And what control number do you have
9 listed?

10 A Control number 0028047.

11 Q And where were these items taken from?

12 A Receipts from Mr. -- from the Defendant.

13 Q Okay. And on what date did you receive
14 them from the Defendant?

15 A April 6th, 2019.

16 Q And on what date did you transfer them to
17 the evidence locker?

18 A It is -- that should be the very same day,
19 yes, ma'am.

20 Q Okay. If you will look right there for
21 me, please. On what date did you transfer them to
22 the evidence locker?

23 A The 6th of April, 2019.

24 Q Okay. The same date as the incident?

25 A Yes, ma'am.

CONTINUED DIRECT EXAMINATION OF J. HERNANDEZ BY MS.
BLUNDY

1 Q So, is it fair to say you made this
2 traffic stop, and then that same day you made sure
3 all of the evidence got to the correct place?

4 A Yes, ma'am.

5 Q Okay. Officer Hernandez, did you have any
6 reason to doubt the integrity of these samples when
7 you submitted them for testing to the lab?

8 A No, ma'am.

9 Q After you surrendered them to the
10 temporary evidence locker, were -- had they, at that
11 point, ever been back in your care, custody, and
12 control besides here in court today?

13 A No, ma'am.

14 Q I'm showing you what has been marked as
15 State's Exhibit No. 7. What is it?

16 A Body cam footage.

17 Q How do you recognize that particular disc?

18 A My signature. Of course my badge number,
19 my name and case number, and the Defendant's name.

20 Q Is it a fair and accurate representation
21 as of the date and -- date and time it was recorded?

22 A Yes, ma'am.

23 Q Has it been altered or changed in any way
24 prior to trial, minus the redactions agreed upon
25 between the State and the Defense?

CONTINUED DIRECT EXAMINATION OF J. HERNANDEZ BY MS.
BLUNDY

1 A No, ma'am.

2 MS. BLUNDY: The State would move to admit No.

3 7.

4 THE COURT: Any objection?

5 MS. PORTER: No objection.

6 THE COURT: State's Exhibit No. 7 would be
7 admitted without objection.

8 *(Whereupon, State's Exhibit No(s). 7*
9 *marked for identification and received in*
10 *evidence.)*

11 MS. BLUNDY: Judge, at this time we would like
12 to go ahead and publish portions of this for the
13 jury.

14 THE COURT: Madam Clerk, would you dim our
15 lights please?

16 (Video begins at 11:42 a.m.)

17 (Video ends at 11:48 a.m.)

18 MS. BLUNDY: Your Honor, if we may take a short
19 recess?

20 THE COURT: Madam Forelady, if you will take the
21 jury to the jury room please.

22 (Brief recess.)

23 THE COURT: We will be in recess for just a few
24 minutes. Officer, you are on the stand so please do
25 not talk with anyone about your testimony while on

CONTINUED DIRECT EXAMINATION OF J. HERNANDEZ BY MS.
BLUNDY

1 the break.

2 WITNESS: Yes, Your Honor.

3 (Brief recess.)

4 (The jury enters the courtroom at 12:01
5 p.m.)

6 THE COURT: Let's go back on the record. Ms.
7 Blundy, proceed.

8 (Video begins playing at 12:01 p.m.)

9 (Video stops at 12:17 p.m.)

10 MS. BLUNDY: Your Honor, we need one more short
11 recess.

12 THE COURT: Madam Bailiff, would you take our
13 jury to the jury room please?

14 (Jury exits the courtroom at 12:18 p.m.)

15 (Brief recess.)

16 (Jury enters the courtroom at 12:23 p.m.)

17 THE COURT: All right. Let's go back on the
18 record. Ms. Blundy, proceed.

19 (Video continues to play at 12:23 p.m.)

20 (Video ends at 12:26 p.m.)

21 BY MS. BLUNDY:

22 Q Officer Hernandez, whose vehicle did he
23 say this was?

24 A His girlfriend's.

25 Q How many times did he ask you to call her

CONTINUED DIRECT EXAMINATION OF J. HERNANDEZ BY MS.
BLUNDY

1 while you were out on the roadside with him?

2 A Several times.

3 Q More than once?

4 A Yes, ma'am.

5 Q More than twice?

6 A Yes, ma'am.

7 Q What did he request from you, as far as
8 his phone?

9 A He was wanting to just get the phone
10 number from -- I guess his girlfriend's phone number
11 out of the phone before he was transferred to the
12 Oconee County Detention Center.

13 Q So, he wanted his phone?

14 A Yes, ma'am.

15 Q How did he indicate which phone was his?

16 A He said it was the one that had a crack on
17 it. It was on the floorboard of the driver's side.

18 Q And now, after reviewing the video, does
19 it refresh your memory as to where he said the weed
20 was located?

21 A Yes, ma'am.

22 Q And he knew exactly where it was?

23 A Yes, ma'am.

24 Q And it was found right where he said?

25 A Yes, ma'am.

CONTINUED DIRECT EXAMINATION OF J. HERNANDEZ BY MS.
BLUNDY

1 Q Even in a car full of stuff, is it fair to
2 say he knew right where it was?

3 A Yes, ma'am.

4 Q What assistance did he request from you as
5 a law enforcement officer?

6 A He was wanting to speak with a narcotics
7 agent.

8 Q And at the time, April the 6th of 2019,
9 who was that with your department?

10 A Lieutenant Underwood.

11 Q And so that was the dialogue that you and
12 him had about Lieutenant Underwood, right?

13 A Yes, ma'am.

14 Q Is it common for you to refer someone to a
15 narcotics agent?

16 A Usually whenever narcotics are found,
17 depending on their charges, depending on if they
18 wish to work with a narcotics agent, then they are
19 referred to them.

20 Q You didn't offer that up to him, right?

21 A No, ma'am.

22 Q He requested that from you?

23 A Yes, ma'am.

24 Q In fact we just watched the video and he
25 said, I will tell you where the shit is coming from.

CONTINUED DIRECT EXAMINATION OF J. HERNANDEZ BY MS.
BLUNDY

1 What did that mean to you?

2 A Narcotics.

3 Q Specifically what kind of narcotics?

4 A Most likely methamphetamine.

5 Q Because you had already told him that the
6 weed wasn't really that big of a deal, right?

7 A Yes, ma'am.

8 Q And that -- what were you going to do with
9 the charges on the marijuana?

10 A I was going to enter the marijuana, as far
11 as destruction. It was a user's amount.

12 Q How many more requests did he make from
13 you as to whether or not he wanted to work with a
14 narcotic's agent?

15 A Many times. Prior -- even while we were
16 at the detention center.

17 Q What did you relate to him as to whether
18 you had an agent on duty at that moment?

19 A I told him that the agent, the lieutenant,
20 doesn't come in until night shift, that it wouldn't
21 be a good idea to call him at that time.

22 Q And what did he say back to you?

23 A He wanted me to call him right there and
24 then.

25 Q Right there and then.

CONTINUED DIRECT EXAMINATION OF J. HERNANDEZ BY MS.
BLUNDY

1 We have watched the video now. There
2 was numerous items inside that vehicle, fair to say;
3 correct?

4 A Yes, ma'am.

5 Q Would you say there were male items inside
6 that vehicle?

7 A Yes, ma'am.

8 Q Would you say there were female items
9 inside that vehicle?

10 A Yes, ma'am.

11 Q Would you say he had any trouble locating
12 the documents you requested from him, as far as
13 registration and insurance?

14 A Nope.

15 Q He wasn't able to provide a driver's
16 license?

17 A I believe he did provide me with an ID.

18 Q An ID?

19 A Yes, ma'am.

20 Q A State-issued ID?

21 A Yes, ma'am.

22 Q But not a valid driver's license?

23 A No, ma'am.

24 Q But he knew right where to look?

25 A Yes, ma'am.

CONTINUED DIRECT EXAMINATION OF J. HERNANDEZ BY MS.
BLUNDY

1 Q Didn't seem to struggle with that?

2 A No, ma'am.

3 Q You mentioned an orange bandanna; do you
4 recall that from the video?

5 A Yes, ma'am.

6 Q Whose did you recognize that to be?

7 A Mr. Cantrell's.

8 Q Were you able to observe the groceries
9 that Officer McCall saw?

10 A Yes, ma'am.

11 Q Would you say that there were spoilable
12 items inside that grocery bag?

13 A Yes, ma'am.

14 Q Would you say the pipe that was found, and
15 the burner, were in reachable distance from this
16 Defendant?

17 A Yes, ma'am.

18 Q Who did you charge with possession of
19 methamphetamine in this case?

20 A The Defendant, Mr. Randy Cantrell.

21 Q Were you uneasy at all about charging Mr.
22 Cantrell with possession of methamphetamine?

23 A No, ma'am.

24 Q Whose methamphetamine did you determine
25 this to belong to?

CROSS EXAMINATION OF J. HERNANDEZ BY MS. PORTER

1 MS. PORTER: Objection, calls for speculation.

2 THE COURT: Overruled.

3 A Mr. Randy Cantrell, Defendant.

4 Q And you do this by taking a totality of
5 the circumstances, correct?

6 A Yes, ma'am.

7 Q Have there been other cases that you have
8 worked on where drugs have been found inside a
9 vehicle and you have not charged every occupant of
10 that vehicle with the drugs?

11 A Yes, ma'am.

12 Q But in this case you believe those to be
13 Mr. Cantrell's?

14 A Yes, ma'am.

15 Q Did his statements to you regarding
16 working with narcotics weigh in your decision?

17 A Yes, ma'am.

18 Q Along with other facts, correct?

19 A Yes, ma'am.

20 MS. BLUNDY: I have no further questions.

21 Please answer anything Ms. Porter may have for you.

22 THE COURT: Ms. Porter.

23 MS. PORTER: Thank you, Your Honor. And thank
24 you, Officer Hernandez.

25 CROSS EXAMINATION

CROSS EXAMINATION OF J. HERNANDEZ BY MS. PORTER

1 BY MS. PORTER:

2 Q I want to talk real quickly, I think
3 towards the end of your testimony just now Ms.
4 Blundy asked you if it was hard to decide whether or
5 not to charge Mr. Cantrell with possession of
6 methamphetamine. And you said that it was not hard
7 to make that decision, correct?

8 A Yes, ma'am.

9 Q All right. This traffic stop, this
10 search, this recovery of meth, that happened on
11 April 6th, right?

12 A Yes, ma'am.

13 Q When did you get the warrant to charge
14 him?

15 A I don't recall.

16 Q If I were to show you a copy of your
17 warrant, would that refresh your recollection?

18 A Yes, ma'am.

19 MS. BLUNDY: Objection, Your Honor, it hasn't
20 been admitted or any foundation.

21 THE COURT: Let the witness identify the
22 document.

23 MS. PORTER: I'm not seeking to admit or publish
24 this to the jury, I'm just using it to refresh
25 recollection.

CROSS EXAMINATION OF J. HERNANDEZ BY MS. PORTER

1 THE COURT: Okay.

2 BY MS. PORTER:

3 Q Okay. So what date did you get this
4 warrant?

5 A The 10th.

6 Q Okay. And you told Mr. Cantrell that you
7 were taking him to jail for some other charges as
8 well?

9 A Yes, ma'am.

10 Q And you used the term TCO, correct?

11 A Yes, ma'am.

12 Q That stands for temporary custody order,
13 right?

14 A Yes, ma'am.

15 Q You get a temporary custody order so that
16 you can put someone in custody and then go to a
17 magistrate to get a warrant, correct?

18 A Yes, ma'am.

19 Q Because you need a magistrate, under our
20 rules, our criminal procedure, a neutral detached
21 person has to determine there's probable cause,
22 correct?

23 A Yes, ma'am.

24 Q And you get those warrants within a day or
25 two, right?

CROSS EXAMINATION OF J. HERNANDEZ BY MS. PORTER

1 A Yes, ma'am.

2 Q And you got some warrants for other
3 charges within a day or two for Mr. Cantrell that
4 day, right?

5 A Yes, ma'am.

6 Q Okay. So for whatever reason you just
7 decided, even though it was an easy call to charge
8 him with possession of methamphetamine, you decided
9 you would just wait four days to get this warrant,
10 correct?

11 A I believe so.

12 Q And you didn't put him under a TCO or a
13 temporary custody order for possession of meth
14 because, in fact, he had already gotten out of jail
15 from your original charges when that warrant was
16 served on him; correct?

17 A I don't recall.

18 Q On a warrant, the back of the warrant is
19 where a magistrate determines what the bond or the
20 bail on a charge is, correct?

21 A Yes, ma'am.

22 Q If I were to show you a copy of this
23 warrant, not seeking to admit it, would you be able
24 to tell me what date the bond was set?

25 A Sure, yes. Yes, ma'am.

CROSS EXAMINATION OF J. HERNANDEZ BY MS. PORTER

1 Q Okay. What date was the bond set on this
2 warrant?

3 A April 13th.

4 Q If someone were arrested on April 6th, or
5 was under a temporary custody order on April 6th,
6 does it take that long to see a magistrate to get a
7 bond set, from April 6th to April 13th?

8 A No, ma'am, usually -- I apologize, no,
9 ma'am.

10 Q Okay. So that would suggest that he had
11 already gotten out of jail and then this warrant was
12 then served on him again?

13 MS. BLUNDY: Objection, calls for speculation.

14 I don't think that he has personal knowledge of that.

15 THE COURT: Overruled. Answer the question.

16 WITNESS: Ask your question again, ma'am.

17 BY MS. PORTER:

18 Q The fact that a bond was set on April
19 13th, when this incident happened on April 6th, that
20 suggests he had already gotten out of jail before
21 this warrant was served on him?

22 A I do not know.

23 Q Okay, I can ask it another way. On a
24 warrant there is a return which tells the date that
25 that warrant was served on someone, correct?

CROSS EXAMINATION OF J. HERNANDEZ BY MS. PORTER

1 A Yes, ma'am.

2 Q Okay. What was the date that this warrant
3 was served on him?

4 A It looks like the 13th.

5 Q Okay, the 13th. The same day that the
6 bond was set for this charge, what you just
7 testified to?

8 A Yes, ma'am.

9 Q Okay. And it can sometimes take 24 hours,
10 maybe even 48 hours if it's a weekend, to get a bond
11 set. But it doesn't normally take seven days to get
12 a bond set?

13 A Is that a question, ma'am?

14 Q Yes, it is.

15 A Okay.

16 Q Does it take that long to have a bond set
17 normally?

18 A It depends.

19 Q So, you have seen a case where it's taken
20 seven days to have a bond set?

21 A Usually if it's a case that has to do with
22 a narcotic's agent, sometimes they can withhold some
23 things, as well as warrants.

24 Q Okay. But the warrant was already served
25 and they are not under a temporary custody order --

CROSS EXAMINATION OF J. HERNANDEZ BY MS. PORTER

1 A No, ma'am.

2 Q Okay. Let me ask this, did you put him
3 under a temporary custody order for possession of
4 meth?

5 A I do not recall.

6 Q Okay. Ms. Blundy asked you about whether
7 or not this pipe, the grocery items, whether or not
8 he could easily reach them from where he was sitting
9 in the car, and you testified yes; correct?

10 A Yes.

11 Q If I can reach something, does that mean
12 that I possess it?

13 A If you are able to get to it.

14 Q Is this mine?

15 A If you can reach it, yes.

16 Q Okay. So that belongs to me?

17 A I apologize, no.

18 Q Okay. So just because I can reach
19 something doesn't mean that it's mine, or that I
20 even know it's there; correct?

21 A Yes.

22 Q I could get close enough to the court
23 reporter that I could potentially put my hand in her
24 pocket, but I don't know what is in her pocket;
25 right?

CROSS EXAMINATION OF J. HERNANDEZ BY MS. PORTER

1 A No, correct.

2 Q We just need verbal responses for the
3 record, not trying to --

4 A No, you are fine.

5 Q Let's circle back a little bit. So this
6 oil burner, the picture that we were looking at --
7 and I'll put that back on the screen.

8 Okay. You testified that there
9 appeared to be some Q tips or cotton balls; is that
10 what this is right here? This is State's
11 Exhibit 13.

12 A Yes, ma'am.

13 Q Okay. This other stuff around it, is this
14 the residue, the meth that Mr. Cantrell was charged
15 for?

16 A Yes, ma'am.

17 Q Okay. And you testified that the purpose
18 of the Q tips, cotton swabs, and you will have to
19 forgive my ignorance, because I don't know a lot
20 about the narcotics world, but this has something to
21 do with making methamphetamine liquid so that it can
22 be injected?

23 A Yes, ma'am. It is also known as speed
24 balling.

25 Q Speed balling, okay. I didn't know that.

CROSS EXAMINATION OF J. HERNANDEZ BY MS. PORTER

1 Okay. Did you find any syringes on Mr. Cantrell?

2 A No, ma'am.

3 Q Any needles or syringes anywhere in the
4 car?

5 A No, ma'am.

6 Q All right. The pipe -- I'll show you
7 State's Exhibit 9. Again, forgive my ignorance, do
8 you use a pipe to inject methamphetamine?

9 A No, ma'am.

10 Q All right. What do you use a pipe for?

11 A I believe to inhale.

12 Q To inhale or smoke?

13 A (Nods.)

14 Q Okay. So, two different processes of
15 using or ingesting methamphetamine?

16 A Yes, ma'am.

17 Q Okay. So, it would be fair to say that
18 the two aren't necessarily related?

19 A Yes.

20 Q Okay. And we don't have any evidence
21 whatsoever that Mr. Cantrell was involved in
22 injecting methamphetamine?

23 A No, ma'am.

24 Q Okay. Thank you. All right. We also had
25 some testimony about torches. How is a torch

CROSS EXAMINATION OF J. HERNANDEZ BY MS. PORTER

1 different than a lighter?

2 A A torch can actually be set on a lock so
3 you can actually, literally, set the torch on just
4 like you do a blowtorch, set it to a setting that
5 stays on.

6 Q Okay. So, it burns something longer?

7 A Yes, you can actually leave it burning
8 while you are trying to smoke something.

9 Q Okay. So, if someone was trying to smoke
10 marijuana, could they possibly want that to burn
11 longer so they could take a bigger hit?

12 A Most likely not, because that would
13 actually probably burn the product, the narcotics.

14 Q Isn't that the point of smoking something,
15 you burn it?

16 A I guess you could say more like cooking a
17 steak, I guess you could say, you don't want to burn
18 it completely because you are not going to taste it.

19 Q Is that -- but don't you burn the
20 methamphetamine completely?

21 A You burn it to a smoke. You burn it to a
22 liquid almost, to where you are able to inhale it.

23 Q And you are burning a green leafy
24 substance of marijuana to a black, ashy substance so
25 that you can inhale the THC, right?

CROSS EXAMINATION OF J. HERNANDEZ BY MS. PORTER

1 A Yes, but I don't think that you would use
2 a torch for that.

3 Q You have never known of anyone to use a
4 torch to smoke marijuana?

5 A Not in the sense of the way that it's
6 being described.

7 Q Interesting. The grinder that was found
8 in very close proximity to Mr. Cantrell, what is
9 that used for? What is a grinder?

10 A A grinder is used to -- most commonly
11 known, people put marijuana in it, the buds, and it
12 just grinds up the marijuana where it makes it more
13 loose where it's more easily able to be put inside a
14 cigarette or a wrapper.

15 Q Okay. What is the bud, you said a bud of
16 marijuana?

17 A A bud is basically -- the marijuana comes
18 in like a flower, a bud, like a rose bud kind of
19 thing.

20 Q Kind of dense?

21 A Yes, and all that does is just break it
22 up.

23 Q Break it up, okay. Do you use a grinder
24 for methamphetamine? I don't know.

25 A You could.

CROSS EXAMINATION OF J. HERNANDEZ BY MS. PORTER

1 Q Okay. Is that common?

2 A I have not seen one.

3 Q Okay. And you didn't send this grinder
4 off to be tested for methamphetamine residue like
5 you did the burner, right?

6 A No, ma'am.

7 Q Okay. Because you didn't see anything
8 consistent with methamphetamine in that grinder?

9 A No, ma'am.

10 Q Okay. There was some testimony about the
11 different phones that were recovered. And I can put
12 a picture of that back up. State's Exhibit 15.
13 These were found in different locations in the car,
14 correct?

15 A Yes, ma'am.

16 Q All right. Did you do any kind of
17 follow-up, any search warrant for the serial numbers
18 on those phones to determine who owned them?

19 A No, ma'am.

20 Q Okay. So we don't know who owned those
21 phones, we don't know whose phones they were?

22 A No, ma'am.

23 Q All right. The pipe, the oil burner, did
24 you send those off for fingerprint analysis?

25 A No, ma'am.

CROSS EXAMINATION OF J. HERNANDEZ BY MS. PORTER

1 Q What about DNA analysis?

2 A No, ma'am.

3 Q Wouldn't that let us know if Mr. Cantrell
4 had touched them and knew they were in his car? Or
5 sorry, excuse me, knew that they were in his
6 girlfriend's car?

7 A No, at the time the narcotics was the most
8 important.

9 Q Let's expound on that. Most important for
10 what?

11 A As far as figuring out if that -- if it
12 was methamphetamine.

13 Q All right. Well --

14 A Or some of the stuff can be laced with
15 fentanyl.

16 Q Very true. And we certainly want our
17 officers to be safe, correct? And I wish you safety
18 in all of your endeavors on the job.

19 A Thank you.

20 Q Sincerely. But these have come back,
21 right?

22 MS. BLUNDY: Objection, Your Honor, that is not
23 admitted so --

24 MS. PORTER: He's identified it as --

25 THE COURT: She can ask the question.

CROSS EXAMINATION OF J. HERNANDEZ BY MS. PORTER

1 BY MS. PORTER:

2 Q Okay. So what Ms. Blundy showed you
3 earlier that had the pipe and the burner in it, we
4 have got them here, even though they have been
5 tested by a lab?

6 A Yes, ma'am.

7 Q Okay. So they could have still been sent
8 off for DNA analysis after a lab determined if there
9 was an illegal substance in it?

10 A Yes.

11 Q Okay. Thank you. All right. So there's
12 been a lot of talk from the government about Mr.
13 Cantrell telling you where the drugs are coming
14 from. It's not uncommon for people who are under
15 arrest to try to work, or another word for working
16 for narcotics is snitching; correct?

17 A Sure, yes.

18 Q It is not uncommon for people under arrest
19 to try to get out of it by doing some work for law
20 enforcement?

21 A Yes.

22 Q It is uncommon?

23 A Yes.

24 Q Okay. Have you seen other people who are
25 under arrest volunteer to work for law enforcement

CROSS EXAMINATION OF J. HERNANDEZ BY MS. PORTER

1 to get out of being under arrest?

2 A Yes, ma'am.

3 Q Have you seen people charged for crimes
4 that weren't related to narcotics, property crimes,
5 burglary, have you seen them volunteer to work for
6 narcotics to get out of their crimes?

7 A Yes, ma'am.

8 Q Okay. There's also been a lot of
9 discussion about how Mr. Cantrell can tell you
10 where -- or let me back up. You testified that you
11 believed when Mr. Cantrell told you he could tell
12 you where the shit was coming from, that you
13 believed that to be methamphetamine; that is what
14 you testified, correct?

15 A Yes, ma'am.

16 Q Okay. And we saw in that video that he
17 was sitting on the hood of the car initially when
18 you and Sergeant McCall were searching that car,
19 correct?

20 A Yes, ma'am.

21 Q And Sergeant McCall excitedly said, There
22 is a meth pipe, didn't he?

23 A Yes, ma'am.

24 Q All right. So it's certainly possible
25 that Mr. Cantrell heard that, correct?

CROSS EXAMINATION OF J. HERNANDEZ BY MS. PORTER

1 A Yes, ma'am.

2 Q All right. So he knew that a meth pipe
3 was found in this car, and then he said that he
4 would work for you, correct?

5 A Yes, ma'am.

6 Q All right. Ms. Blundy asked you about
7 whether or not he was able to easily locate the
8 registration and the proof of insurance on this car,
9 and you testified that he was. Don't most people
10 keep their registration and proof of insurance in
11 the glove compartment?

12 A I apologize, I don't know how to answer
13 that.

14 Q All right. You have done a number of
15 traffic stops in your tenure in law enforcement?

16 A Yes, ma'am.

17 Q Many people keep their registration and
18 proof of insurance in the glove compartment in the
19 car?

20 A I wouldn't say majority, but yes.

21 Q Okay, majority or most, let's not split.

22 A Yes.

23 Q So, if I were driving a car that was not
24 mine, it would make sense that I would check the
25 glove box if I was looking for a registration and

CROSS EXAMINATION OF J. HERNANDEZ BY MS. PORTER

1 proof of insurance. If that is where the majority
2 of people keep them, that is probably my first --

3 MS. BLUNDY: Objection. I would ask that she
4 ask a question.

5 MS. PORTER: That is a question.

6 THE COURT: Don't argue in your question.
7 Address him in the form of a question.

8 BY MS. PORTER:

9 Q When people are pulled over, if the
10 majority of people keep their registration and proof
11 of insurance in the glove box, if I don't
12 immediately know where it is, wouldn't it make sense
13 that that is where I would first look?

14 A Possibly.

15 Q Okay. And in the video that we just
16 watched, he rifled through that glove box for a
17 while before he found the registration and proof of
18 insurance, correct?

19 A Yes, ma'am.

20 Q It wasn't an immediate, Oh, here it is,
21 here you go, officer; correct?

22 A Yes, ma'am.

23 Q All right. He told you that this was his
24 girl's car, correct?

25 A Yes, ma'am.

CROSS EXAMINATION OF J. HERNANDEZ BY MS. PORTER

1 Q And were you able to verify that?

2 A Yes, ma'am.

3 Q Whose car was this?

4 A It was Ms. Burnhart's.

5 Q Do you know Ms. Burnhart?

6 A No.

7 Q You are not familiar with her?

8 A No, ma'am.

9 Q So she doesn't have a reputation that you
10 are aware of?

11 A Honestly, ma'am, I can't recall.

12 Q Okay. And that is all that I'm asking.
13 If you don't know, certainly tell us that you don't
14 know.

15 You told Mr. Cantrell that he looked
16 clean, didn't you?

17 A Yes, ma'am.

18 Q And if someone looks clean, typically that
19 means that they don't look like they are doing
20 drugs; correct?

21 A Not necessarily, no.

22 Q Well, what did you mean when you told him
23 that he looked clean?

24 A Well, may I? His nickname is Dirty, so
25 he's always kind of dirty.

CROSS EXAMINATION OF J. HERNANDEZ BY MS. PORTER

1 Q So he just had good hygiene that day?

2 A Yeah.

3 Q Okay. You told him that as far as the
4 different charges that would come about that day, to
5 just be honest and you would see what happened, that
6 is correct, right; that is what you told him?

7 A Yes, ma'am.

8 Q And in fact he was honest about the
9 marijuana, and you didn't charge him with that;
10 right?

11 A Yes, ma'am.

12 Q Because he was honest?

13 A Yes, ma'am.

14 Q And I believe you said, It is not really
15 even a large user amount; isn't that what you said?

16 A Yes, ma'am.

17 Q Okay. The little residue in that oil
18 burner, was that a large user amount?

19 A No, ma'am.

20 Q Okay. So, he knew if he was honest he
21 wasn't going to be charged with something, but you
22 think that he knew that the meth was in the car and
23 just decided not to tell you?

24 A Yes, ma'am.

25 Q Okay. You told Mr. Cantrell that there

CROSS EXAMINATION OF J. HERNANDEZ BY MS. PORTER

1 was a process that you have to go through, you have
2 to make the charges and then possibly get a
3 narcotics officer to come in and talk to him, and
4 then maybe the charges can go away or be disposed
5 of, whatever; is that true?

6 A Can I explain?

7 Q Explain, yes.

8 A Usually if there is some charges, the
9 narcotics agent takes and they see about, about
10 trying to see if they can help them go through a
11 program or help them go through whatever they do as
12 far as the charges go. Once it leaves my hands it
13 goes to them and they figure out what they are going
14 to do with it.

15 Q So once it leaves your hands -- well, let
16 me back up. So you had to arrest him for it that
17 day?

18 A Yes, ma'am.

19 Q But you didn't arrest him for possession
20 of meth on April 6th?

21 A I don't recall. I placed him on TCO.

22 Q Does a temporary custody order usually
23 last from April 6th until April 10th?

24 A No, ma'am.

25 Q Okay. So you didn't place him on TCO for

CROSS EXAMINATION OF J. HERNANDEZ BY MS. PORTER

1 possession of meth that day?

2 A I believe that I think I had him for
3 driving under suspension if I recall.

4 Q Okay. So you put him under arrest for
5 something else, and you waited a few days to go get
6 a warrant. There wasn't a temporary custody order
7 for the possession of meth, correct?

8 A From what I can recall, no, ma'am.

9 Q Okay. You also found a citation, a
10 ticket, in the front driver's side of that car. And
11 who -- what was that ticket?

12 A It was failure to stop.

13 Q Disregarding a stop sign?

14 A Yes, ma'am.

15 Q Okay. And who was that ticket made out
16 to?

17 A To the owner of the vehicle, Ms. Burnhart.

18 Q Okay. That was within an easy reach of
19 Mr. Cantrell, right?

20 A Yes, ma'am.

21 Q Okay. Do you think that he owned that?
22 Do you think he knew that it was there?

23 A The citation?

24 Q Yes.

25 A I have no idea.

CROSS EXAMINATION OF J. HERNANDEZ BY MS. PORTER

1 Q Okay. You have no idea. But there is
2 something in the back of the car that wasn't within
3 easy reach and you do have a pretty good idea that
4 he knew that was there, correct?

5 A Yes.

6 Q You told Mr. Cantrell there was a process
7 you had to go through, there was a little bit of
8 weed in the car. Simple possession of marijuana is
9 a charge that you can make and take someone to jail
10 for, correct?

11 A Yes, ma'am.

12 Q All right. And the way that the statute
13 is written, it is just under 28 grams; right?

14 A Yes, ma'am.

15 Q So point one gram of marijuana is enough
16 to arrest someone for?

17 A Yes, ma'am.

18 Q Okay. But you didn't think that it was
19 appropriate to arrest him for that?

20 A No, ma'am.

21 Q Thank you for your honesty. Mr. Cantrell
22 asked you if you could let him get his phone,
23 correct?

24 A Yes, ma'am.

25 Q Okay. In this video that we watched,

CROSS EXAMINATION OF J. HERNANDEZ BY MS. PORTER

1 around the 20-minute mark you made a comment, you
2 said, Unfortunately we can't charge for
3 paraphernalia; didn't you say that?

4 A Yes, ma'am.

5 Q A pipe is paraphernalia, correct?

6 A Yes, ma'am.

7 Q It's fair to say that most people don't
8 want to go to jail, right?

9 A Yes, ma'am.

10 Q It is not a pleasant experience?

11 A No, ma'am.

12 Q And if they have knowledge of something
13 that maybe they are not even involved in -- let's
14 say that their girlfriend is buying meth from
15 someone, they could offer that up --

16 MS. BLUNDY: Objection to the hypothetical.
17 This witness has not been qualified as an expert.

18 MS. PORTER: I'll withdraw.

19 BY MS. PORTER:

20 Q All right. As far as sending these items
21 off for testing goes, you put the pipe and the oil
22 burner in one BEST pack, correct?

23 A Yes, ma'am.

24 Q Have you seen the results from the lab?

25 A Yes, ma'am.

CROSS EXAMINATION OF J. HERNANDEZ BY MS. PORTER

1 Q Okay. What was in that pipe?

2 MS. BLUNDY: Objection, Your Honor. I believe
3 that is improper foundation and improper question for
4 this witness.

5 THE COURT: The results of the test have not
6 been admitted into evidence, so I'm going to sustain
7 the objection.

8 MS. PORTER: Okay.

9 BY MS. PORTER:

10 Q Let me ask this. Without a lab -- without
11 a report from a lab confirming that a substance is
12 in fact a controlled substance, is that something
13 that you can take to trial?

14 A Yes, ma'am.

15 Q You can prove beyond a reasonable doubt
16 that something is a controlled substance without a
17 test?

18 A Without it being tested, no, ma'am. I
19 apologize.

20 Q Okay.

21 A I just didn't understand your question.

22 Q My apologies for not asking it in the
23 correct manner.

24 Beg the Court's indulgence for one
25 second.

CROSS EXAMINATION OF J. HERNANDEZ BY MS. PORTER

1 (Pause.)

2 BY MS. PORTER:

3 Q Oh, Mr. Cantrell was charged for other
4 things that day, right?

5 A I do not recall.

6 Q Well, you said that he was charged for
7 driving under suspension?

8 A Yes, ma'am.

9 Q There was also a charge that involved the
10 weapons that we saw, right?

11 A No, ma'am, I don't believe that I charged
12 him with the weapons.

13 Q If I showed you a warrant --

14 A Was it for the ammunition?

15 Q One second.

16 MS. PORTER: May I approach the witness?

17 THE COURT: Yes, ma'am.

18 BY MS. PORTER:

19 Q Without telling the jury what this says,
20 because I'm not seeking to admit it into evidence,
21 you did charge him for the weapons that we saw in
22 the video, correct? Or the ammunition?

23 A The ammunition.

24 Q Okay. All of those other charges have
25 been disposed of, correct?

REDIRECT EXAMINATION OF J. HERNANDEZ BY MS. BLUNDY

1 A Yes, ma'am.

2 Q Okay. The only thing that we are deciding
3 today is whether or not he possessed that
4 methamphetamine, right?

5 A Yes, ma'am.

6 MS. PORTER: I have no other questions for this
7 witness. Thank you, Officer.

8 THE COURT: Anything further for this witness?

9 MS. BLUNDY: Yes, Your Honor. I have a few
10 follow-up.

11 REDIRECT EXAMINATION

12 BY MS. BLUNDY:

13 Q Officer Hernandez, I just want to clarify,
14 you didn't charge him specifically with regards to
15 what looks to be the gun?

16 A No, ma'am.

17 Q You charged him solely based on the
18 ammunition that was found?

19 A Yes, ma'am.

20 Q Okay. I just wanted to make sure that was
21 clear. You also charged him for the driving under
22 suspension?

23 A Yes, ma'am.

24 Q You personally were familiar with this
25 Defendant's nickname?

REDIRECT EXAMINATION OF J. HERNANDEZ BY MS. BLUNDY

1 A Yes, ma'am.

2 Q And you referred to him by his nickname,
3 in fact, when you approached the car; right?

4 A Yes, ma'am.

5 Q Was this a nickname law enforcement gave
6 him, or was this a nickname that he knew to go by?

7 A I believe it was just a nickname that he
8 knew to go by.

9 Q Okay. And that was Dirty?

10 A Yes, ma'am.

11 Q Do you know for a fact or have personal
12 knowledge that it specifically meant his hygiene?

13 A No, ma'am.

14 Q So you don't have knowledge as to what it
15 actually meant?

16 A No, ma'am.

17 Q Okay. You had testified that he rifled
18 through the glove box, but we all watched the video.
19 Did it seem like he was struggling to find that
20 paperwork?

21 A No, ma'am.

22 Q Did it seem like he had to sort through a
23 bunch of stuff to know exactly where it was?

24 A No, ma'am.

25 Q Did it seem like he didn't know which

REDIRECT EXAMINATION OF J. HERNANDEZ BY MS. BLUNDY

1 folder to pull out when you asked him for the
2 registration and the insurance?

3 A No, ma'am.

4 Q There was other items and other things
5 inside that glove box?

6 A Yes, ma'am.

7 Q Okay. I just wanted to be clear. In a
8 case like this, for possession of methamphetamine,
9 is it common to take the extra step and test for DNA
10 analysis, which would be blood or saliva; would you
11 do that in this type of case?

12 A No, ma'am.

13 Q What type of case would you normally see
14 that in?

15 A DVHAN. That is domestic violence of a
16 high and aggravated nature. Something that is a lot
17 more --

18 Q What about a rape case?

19 A Yes, ma'am.

20 Q What about a murder case?

21 A Yes, ma'am.

22 Q Something along those lines?

23 A Yes, ma'am.

24 Q Not a possession of methamphetamine case?

25 A No, ma'am.

REDIRECT EXAMINATION OF J. HERNANDEZ BY MS. BLUNDY

1 Q The Defense attorney mentioned snitching;
2 is that a term that you are familiar with?

3 A I know the term, but, no, we don't -- I
4 don't use that term.

5 Q Being a snitch, being a rat, you have
6 never heard of it?

7 A I have heard of it, yes.

8 Q Okay. And I know that you are not
9 Lieutenant Underwood, and I know that you don't run
10 the narcotics division, but how does that work as a
11 road officer? Why would you refer somebody who has
12 asked you to work for narcotics? What is the
13 benefit to the police department?

14 A To possibly seize more illegal narcotics.

15 Q Seize more from who? Who are you going
16 after?

17 A The person that is possibly supplying
18 them.

19 Q So not just someone who would use or
20 possess?

21 A Yes, ma'am.

22 Q Maybe someone who is selling?

23 A Yes, ma'am.

24 Q And that is, in fact, how you would find
25 out who the sellers in the area are?

REDIRECT EXAMINATION OF J. HERNANDEZ BY MS. BLUNDY

1 A Yes, ma'am.

2 Q Because they don't wear their name on
3 their shirt, correct?

4 A Yes, ma'am.

5 Q Thank you. You had testified earlier, and
6 you had testified when I asked you a question
7 whether the meth pipe and the burner were within
8 reach of the Defendant, and you said, Yes?

9 A Yes, ma'am.

10 Q And nobody else was in this car?

11 A No, ma'am.

12 Q No. But that wasn't the only thing you
13 used to determine that these belonged to Mr.
14 Cantrell, right; that is what you testified to?

15 A Yes, ma'am.

16 Q That you used the totality of the
17 circumstances?

18 A Yes, ma'am.

19 Q And a large part of that you testified was
20 his statements as to, he can tell you where the shit
21 was coming from?

22 A Yes, ma'am.

23 Q And he told you that after he saw you look
24 at the meth pipe and heard that you saw a crystal
25 like substance inside of it?

REDIRECT EXAMINATION OF J. HERNANDEZ BY MS. BLUNDY

1 A Yes, ma'am.

2 MS. BLUNDY: Thank you. No further questions.

3 THE COURT: Thank you, Officer. You can step
4 down.

5 Ladies and gentlemen, I know that we have
6 run way over into your lunch hour. So we are
7 going to break until 2:30 to give you a chance
8 to go get something to eat. Remember your
9 instructions during lunch. Don't talk to third
10 parties, don't deliberate amongst yourselves,
11 and don't do any independent research. And we
12 will see you at 2:30.

13 (The jury exits the courtroom at 1:08
14 p.m.)

15 THE COURT: All right. Anything before we go
16 into recess?

17 MS. BLUNDY: Nothing from the State, Your Honor.

18 MS. PORTER: Nothing from the Defense, Your
19 Honor.

20 THE COURT: All right. We will be in recess
21 until 2:30 on this case. Now if they get the other
22 guy up here at 2:00, we will deal with that first.

23 MS. PORTER: I did just get a notice. I have a
24 text message on that case. All right. She sent me a
25 picture of a document. She says that she's looking

DIRECT EXAMINATION OF CHARLIE SMITH BY MS. BLUNDY

1 through the hospital papers. Mr. Landreth (phonetic)
2 isn't there, so she is going to send what they have.
3 The papers do talk about home isolation, washing
4 laundry thoroughly. Instructions: Avoid sharing
5 personal household items. She does tell me this
6 doesn't have his name on it, so he may have them with
7 him. He's so, so sick walking to the health
8 department or somewhere to get documents for Your
9 Honor.

10 THE COURT: Okay.

11 (Lunch recess.)

12 THE COURT: All right. Are we ready to proceed?

13 MS. BLUNDY: We are, Your Honor.

14 THE COURT: All right. Call your next witness.

15 MS. BLUNDY: We would like to call Charlie Smith
16 to the stand.

17 Thereupon,

18 CHARLIE SMITH

19 was called as a witness, having been first duly sworn,
20 was examined and testified as follows:

21 DIRECT EXAMINATION

22 BY MS. BLUNDY:

23 Q Please state your name for the record?

24 A Charlie Smith.

25 Q Charlie, who are you currently employed

DIRECT EXAMINATION OF CHARLIE SMITH BY MS. BLUNDY

1 with?

2 A Oconee County Sheriff's Office.

3 Q And where did you work prior to coming on
4 to the Sheriff's Office?

5 A Walhalla Police Department.

6 Q How long did you work for the Walhalla
7 Police Department?

8 A Around two years.

9 Q And when you worked for the department,
10 what was your specific duties or what was your
11 title?

12 A I was evidence technician, as well as
13 crime scene investigator. I was sergeant also, and
14 did the road also.

15 Q And what are your current duties now in
16 your current position?

17 A In my current position I am evidence tech
18 for the delta shift. I currently work in the
19 Sheriff's Office.

20 Q Would it be fair to say that some of the
21 skills that you learned at the Walhalla Police
22 Department you now utilize at your new job?

23 A Absolutely.

24 Q Okay. I'm going to show you what has been
25 marked as State's Exhibit 1 -- I am sorry,

DIRECT EXAMINATION OF CHARLIE SMITH BY MS. BLUNDY

1 Exhibit 21. What is this document?

2 A This is a Form C. It is part of the chain
3 of custody that we have when we take narcotics to
4 Anderson for analysis.

5 Q And how do you recognize it specifically?

6 A I filled it out. I took the evidence from
7 the evidence locker 13 and put it into the evidence
8 room for storage until I was going to move it to
9 Anderson to be analyzed.

10 Q And whose signature is that?

11 A That is mine.

12 Q And what date did you take the specimen
13 out of the evidence locker?

14 A. The date that I took it out of the locker
15 was on 4-22-19.

16 Q And how do you identify the specimen, how
17 do you know --

18 A It is in a BEST kit. All of the narcotics
19 are placed into the BEST kit. We pretty much put
20 all of the narcotics for every single individual
21 case into a BEST kit to include all of the narcotics
22 with their same case. The BEST kit is marked number
23 28047, not to be confused with another BEST kit.

24 Q Is this form substantially in the same
25 condition as the day you filled it out?

DIRECT EXAMINATION OF CHARLIE SMITH BY MS. BLUNDY

1 A Yes, ma'am.

2 Q Has it been altered or changed in any way?

3 A No, ma'am.

4 Q Okay. Can you tell me what that control
5 number was again?

6 A It was control number 28047.

7 Q And so you took it out on April the 22nd
8 of 2019?

9 A Yes, ma'am.

10 Q And then what did you do with it then?

11 A I placed it in evidence storage until a
12 time that I had a good amount of time to go to
13 Anderson County to turn it into Meredith at the
14 evidence --

15 Q During your care, custody, and control
16 from when you move it from the temporary locker into
17 the storage facility, did you alter or tamper with
18 the specimen in any way?

19 A No, ma'am. And I am the only person who
20 had the key to it at that time.

21 MS. BLUNDY: The State would move to admit
22 Exhibit 21.

23 THE COURT: Any objection?

24 MS. PORTER: None, Your Honor.

25 THE COURT: State's Exhibit No. 21 will be

DIRECT EXAMINATION OF CHARLIE SMITH BY MS. BLUNDY

1 admitted without objection.

2 *(Whereupon, State's Exhibit No(s). 21*
3 *marked for identification and received in*
4 *evidence.)*

5 BY MS. BLUNDY:

6 Q. Officer Smith, I'm showing you what has
7 been marked as State's Exhibit 22. What is this
8 document?

9 A Yes, ma'am, this is another Form C. This
10 is where I moved the evidence, the BEST kit, from
11 evidence storage to Anderson to be analyzed.

12 Q On what date did you remove it from the
13 storage unit?

14 A I removed it from the storage unit on
15 6-3-2019.

16 Q And what date did you transport it down to
17 the lab in Anderson?

18 A On 6-3-2019.

19 Q So the same day?

20 A Same day.

21 Q And how do you recognize this document in
22 particular?

23 A It has my signature on it. It has got the
24 same control number as the last one did. It is my
25 document; it is the same thing that I filled out

DIRECT EXAMINATION OF CHARLIE SMITH BY MS. BLUNDY

1 initially.

2 Q Substantially in the same condition as the
3 day you filled it out?

4 A In the same condition as the day I filled
5 it out.

6 Q Altered or changed in any way prior to
7 court?

8 A There is -- it has not been altered since
9 I filled it out and moved it; however, I initially
10 planned on making the trip to Anderson on 5-30
11 rather than 6-3, however something came up in the
12 middle of that day where I had to be on the road.
13 So I did change and put my initials next to the new
14 date of 6-3-2019.

15 Q But all of that was done --

16 A All of that was done on 6-3-2019 when I
17 took it to Anderson.

18 THE COURT: What exhibit is this?

19 MS. BLUNDY: This is Exhibit 22.

20 BY MS. BLUNDY:

21 Q Just for clarification, you scratched out
22 your typed date?

23 A. Yes, ma'am.

24 Q. And you handwrote in --

25 A I handwrote in a new date. Because

DIRECT EXAMINATION OF CHARLIE SMITH BY MS. BLUNDY

1 something came up on 5-30, so I wasn't able to
2 actually take it down there. I did not remove it
3 from the evidence room until 6-3-2019.

4 Q. Okay. And this is hard to tell, but that
5 is a 3 as well, not a 5?

6 A Yes, that is a 3, not a 5.

7 MS. BLUNDY: Okay. The State would move to
8 admit Exhibit No. 22.

9 THE COURT: Any objection?

10 MS. PORTER: None, Your Honor.

11 THE COURT: State's Exhibit No. 22 is admitted
12 without objection.

13 *(Whereupon, State's Exhibit No(s). 22*
14 *marked for identification and received in*
15 *evidence.)*

16 BY MS. BLUNDY:

17 Q I'm showing you what has previously been
18 marked as State's Exhibit 18.

19 A Yes, ma'am.

20 Q What is this?

21 A This is the BEST kit, which has been
22 resealed after analysis by Meredith who analyzed it.

23 Q How do you recognize it?

24 A It is the same BEST kit, the same control
25 number at the top. And it has all of the things in

DIRECT EXAMINATION OF CHARLIE SMITH BY MS. BLUNDY

1 it that were marked on all of my Form Cs.

2 Q And the control number would match the
3 number on your chain of custody?

4 A Yes, ma'am. 28047.

5 Q And that control number goes specifically
6 to Mr. Hernandez's case?

7 A Yes, ma'am.

8 Q With Mr. Cantrell?

9 A Yes, ma'am.

10 Q When you receive the evidence in the
11 temporary locker, what does it look like?

12 A It would have been only packaged in this
13 envelope which is sealed inside the outer envelope
14 that came from the lab.

15 Q So, that outer envelope was not there?

16 A No, ma'am.

17 Q Just the blue sealed envelope?

18 A Yes, just the blue sealed envelope on the
19 inside and all of the contents which are now in the
20 big envelope would have been in the original
21 envelope.

22 Q When you receive it, is that blue envelope
23 sealed or do you seal it?

24 A It is sealed when I received it. I am --
25 we don't accept anything in the evidence room that

CROSS EXAMINATION OF CHARLIE SMITH BY MS. PORTER

1 is not sealed.

2 Q You won't accept it?

3 A No, ma'am.

4 Q So it is your testimony that this
5 particular bag was sealed when you transported it?

6 A Yes, ma'am.

7 Q While these times were in your care,
8 custody, and control, did you tamper with this
9 evidence in any way?

10 A No, ma'am.

11 MS. BLUNDY: Thank you. I have no further
12 questions for this witness. Please answer anything
13 Ms. Porter may have for you.

14 THE COURT: Ms. Porter.

15 MS. PORTER: Thank you, Ms. Blundy. And thank
16 you, Your Honor. May it please the Court.

17 CROSS EXAMINATION

18 BY MS. PORTER:

19 Q Just very briefly. The exhibits that we
20 just saw, specifically Exhibit 22; could you tell me
21 a little more about what happened on May 30th?

22 A I cannot recall, but I am assuming that I
23 -- because I was on the road as well. I was one of
24 two officers that would work the road. I imagined I
25 planned the trip and the captain or chief had to go

DIRECT EXAMINATION OF MEREDITH LANFORD BY MS. BLUNDY

1 out of town and it left me on the road and I wasn't
2 able to make that trip.

3 Q Okay. Thank you for that. Do you recall
4 if you actually took that BEST pack out of evidence
5 storage?

6 A I would not. I would not have.

7 Q So it remained in that storage throughout
8 May 30th and didn't come out until June 3rd?

9 A Yes, ma'am.

10 MS. PORTER: Thank you. That is all of the
11 questions that I have.

12 THE COURT: Anything further of this witness?

13 MS. BLUNDY: No, Your Honor.

14 THE COURT: Thank you, Officer. You may step
15 down.

16 You may call your next witness.

17 MS. BLUNDY: The State would like to call
18 Meredith Lanford.

19 Thereupon,

20 MEREDITH LANFORD

21 was called as a witness, having been first duly sworn,
22 was examined and testified as follows:

23 DIRECT EXAMINATION

24 BY MS. BLUNDY:

25 Q Please state your name for the record?

DIRECT EXAMINATION OF MEREDITH LANFORD BY MS. BLUNDY

1 A Meredith Lanford.

2 Q Ms. Lanford, where are you employed?

3 A I am employed with the Anderson/Oconee
4 regional forensics laboratory.

5 Q And what is your job description; what is
6 your title?

7 A I am a forensic chemist. And my main duty
8 is to analyze evidence that is brought to our lab
9 for suspected controlled substances.

10 Q Can you tell the jury a little bit about
11 your educational background, and how do you become a
12 forensic chemist?

13 A Yes. I graduated from Clemson University
14 with a Bachelors of Science Degree in Chemistry. I
15 then went on to complete the Forensic Science
16 Certificate program at Greenville Technical College.
17 I was trained and certified as a forensic chemist
18 with my laboratory, as well as my previous
19 laboratory, the Charleston Police Lab.

20 I am a member of the American
21 Chemical Society, as well as the clandestine
22 laboratory investigating chemist. And I also had to
23 pass a proficiency test every year as well as
24 maintain about 40 hours of additional training in
25 forensics.

DIRECT EXAMINATION OF MEREDITH LANFORD BY MS. BLUNDY

1 Q So how long have you worked as a forensic
2 chemist?

3 A I have been with the Anderson lab for 15
4 years, and for about a year with the Charleston lab.

5 Q And during that time you had mentioned
6 that you had continuing education each year?

7 A Yes.

8 Q. I know this is kind of a loaded question,
9 but do you know how many drug analyses that you have
10 performed during the course of your career?

11 A I have done probably well over nine
12 thousand cases. I'm not sure about actual analysis.
13 I mean . . .

14 Q Have you -- how many times have you
15 testified in court before?

16 A Forty.

17 Q And have you been qualified as an expert
18 before?

19 A Yes, I have.

20 MS. BLUNDY: Your Honor, at this time I would
21 like to present Ms. Lanford as an expert in the
22 fields of chemistry, and specifically forensic
23 chemistry.

24 THE COURT: Any objection?

25 MS. PORTER: Without objection.

DIRECT EXAMINATION OF MEREDITH LANFORD BY MS. BLUNDY

1 THE COURT: So, the witness would be deemed an
2 expert in forensic chemistry without an objection.

3 BY MS. BLUNDY:

4 Q Ms. Lanford, I'm handing you what has been
5 marked as State's Exhibit 23. What is this
6 document?

7 A This is our internal chain of custody
8 report.

9 Q How do you recognize this document in
10 particular?

11 A It has our lab number on it, as well as my
12 name.

13 Q And can you tell us what -- excuse me.
14 What did you receive on the date of 6-3-2019?

15 A I received a BEST kit.

16 Q And who is that relinquished by?

17 A That was given to me by Charlie Smith.

18 Q And what is the process in assigning a lab
19 number; how does that work?

20 A So the evidence technicians, we have them
21 come to our lab and we log in the cases that they
22 bring. And each BEST kit that they submit gets a
23 lab number assigned to it just in sequential order.

24 Q I am also showing you what has been
25 previously marked as State's Exhibit No. 18. What

DIRECT EXAMINATION OF MEREDITH LANFORD BY MS. BLUNDY

1 is it that you would actually receive, or that you
2 received in this case?

3 A I actually received, this is what we call
4 a BEST kit. And this is the evidence bag that we
5 ask all of our submitting agencies to put their BEST
6 -- their evidence in.

7 Q And in looking at Exhibit 18, it looks
8 like if you flip it over, that there is a sticker on
9 the front of this outer bag?

10 A Yes.

11 Q What lab number is reflected on that
12 sticker?

13 A So, this one was assigned lab number
14 L19-000880.

15 Q And does that correspond with State's 23?

16 A Yes, it does.

17 Q Okay. So, this is the chain of custody
18 for that drug evidence?

19 A It is.

20 Q So, after you received it from Charlie
21 Smith on June the 3rd of 2019, what happened to that
22 BEST kit next?

23 A What happens is we place all of the
24 evidence into our stored locker, and then it stays
25 there until we are ready to analyze it.

DIRECT EXAMINATION OF MEREDITH LANFORD BY MS. BLUNDY

1 Q And that was placed into a locker on June
2 the 3rd of 2019 as well?

3 A Yes, it was.

4 Q Same day he dropped it off?

5 A Correct.

6 Q And then what happens to it?

7 A It stays in there until it's ready to be
8 analyzed. And like I said, we do it in sequential
9 order. So on this particular case, I analyzed this
10 on September 10th, 2019.

11 Q Is that pretty common to have a few months
12 gap? Because you said that you do them based on
13 sequential order, so I am assuming what you are
14 saying is the order that other evidence comes in, it
15 kind of goes down the chain?

16 A Correct. And we also take in evidence
17 from all of the agencies in Anderson County as well
18 as Oconee County. So we have several agencies
19 submitting evidence to us.

20 Q So what did you do with it on September
21 the 10th of 2019?

22 A I started the analysis on it and finished
23 it.

24 Q And finished it on that same day, on
25 September the 10th?

DIRECT EXAMINATION OF MEREDITH LANFORD BY MS. BLUNDY

1 A Correct.

2 Q Of 2019?

3 A Uh-huh. (Indicating affirmatively.)

4 Q. Okay. Has this document, Exhibit 23, been
5 altered or changed in any way?

6 A No, it has not.

7 Q Do you keep record of this in your
8 computer records?

9 A Correct.

10 Q Is it substantially in the same condition
11 as the day that it was generated?

12 A Yes.

13 MS. BLUNDY: The State would move to admit
14 Exhibit 23.

15 MS. PORTER: No objection.

16 THE COURT: State's Exhibit No. 23 would be
17 admitted without objection.

18 *(Whereupon, State's Exhibit No(s). 23*
19 *marked for identification and received in*
20 *evidence.)*

21 BY MS. BLUNDY:

22 Q I'm showing you what has been marked as
23 State's Exhibit No. 24. What is this document?

24 A This is our laboratory report.

25 Q And who did the analysis?

DIRECT EXAMINATION OF MEREDITH LANFORD BY MS. BLUNDY

1 A I did.

2 Q And how do you know it was you?

3 A It has my signature on it.

4 Q And what was the date that this report was
5 generated?

6 A This report was actually generated on
7 September 13th, 2019.

8 Q Okay. And did that -- does your lab
9 report coordinate or match the same lab number as
10 what has been previously marked on State's
11 Exhibit 18?

12 A It does.

13 Q And what is the control number?

14 A The control number is the actual number
15 that is on the BEST kit. So we not only are able to
16 match by control number, but also by lab number.

17 Q And is that control number also indicated
18 in your lab report?

19 A It is.

20 Q Okay. So, what were to happen if you
21 received a BEST kit and it is opened or tampered
22 with, or something doesn't look right, what would
23 you do with it?

24 A We are not allowed to take that kind of
25 evidence in. It would have to go back with the

DIRECT EXAMINATION OF MEREDITH LANFORD BY MS. BLUNDY

1 evidence technician.

2 Q So you didn't see any of that in this
3 case?

4 A Correct.

5 Q And are you the one who actually cuts open
6 the BEST kit?

7 A Yes, I am.

8 Q Okay. And that is what you did to State's
9 Exhibit 18?

10 A I did.

11 Q Okay. When you did that, you performed a
12 chemistry analysis; right?

13 A Right.

14 Q And when you are looking for
15 methamphetamine, in layman's terms can you tell us a
16 little bit about how that process works? How can
17 you determine what the chemical compound is?

18 A The first thing I do is remove the
19 substance from any packaging that it has. So in
20 this case there was residue stuck on the actual oil
21 burner in here. So I had to actually scrape it off
22 to get a weight from it. I then performed screening
23 tests to help me narrow down what kind of substance
24 may be present. And I then performed two
25 confirmatory tests on our instruments in the lab in

DIRECT EXAMINATION OF MEREDITH LANFORD BY MS. BLUNDY

1 order to determine if a controlled substance is
2 present and which one it is.

3 Q Okay. And is this, State's Exhibit 18,
4 substantially in the same condition as the day that
5 you returned it?

6 A Yes.

7 Q Has it been altered or changed in any way
8 other than you running testing on the material?

9 A No.

10 Q The items that were in here were, in fact,
11 what was inside the BEST kit when you received it?

12 A. Yes.

13 MS. BLUNDY: State would move to admit Exhibit
14 18.

15 THE COURT: Any objection?

16 MS. PORTER: None, Your Honor.

17 THE COURT: State's Exhibit No. 18 would be
18 admitted without objection.

19 *(Whereupon, State's Exhibit No(s). 18*
20 *marked for identification and received in*
21 *evidence.)*

22 BY MS. BLUNDY:

23 Q Would you please open State's Exhibit 18
24 for us?

25 Specifically looking at your lab

DIRECT EXAMINATION OF MEREDITH LANFORD BY MS. BLUNDY

1 report, you had different items marked. 1 -- A1,
2 what would that have gone to, and how would you
3 know?

4 A A1 was a clear plastic zip lock bag
5 containing a ceramic potpourri burner with a
6 crystalline substance stuck to it.

7 Q Okay. And I see this baggy right here,
8 what is this marked as?

9 A That is marked as A-01 as well. This is
10 the actual residue that I scraped off from the
11 burner.

12 Q From the inside or top of this burner?

13 A Yes.

14 Q So, these two went together?

15 A Yes.

16 Q And when you ran the analysis on this
17 white crystal like substance, what did it come back
18 as?

19 A Methamphetamine.

20 Q Were there any other substances inside
21 that burner that were foreign to you or that you
22 were able to identify?

23 A No.

24 Q Any cotton residue?

25 A There is pieces of cotton stuck in here as

DIRECT EXAMINATION OF MEREDITH LANFORD BY MS. BLUNDY

1 well. And that I just left on the burner.

2 Q You just left it?

3 A Right. I didn't try to scrape it off or
4 anything.

5 Q So this amount though is what you scraped
6 off for testing?

7 A Correct.

8 Q And when you did that, did you then weigh
9 the substance?

10 A Yes, I scraped as much as I could off and
11 then I took a weight of the substance.

12 Q The scales that you use at the laboratory,
13 are they calibrated?

14 A Yes, they are.

15 Q So, the weight is extremely accurate?

16 A Yes.

17 Q According to your lab report, what was the
18 weight?

19 A The weight was 0.19 grams.

20 Q Okay. Looking at item number A -- number
21 and letter -- A2. You also received this in the
22 same BEST kit, correct?

23 A Yes.

24 Q And did you perform an analysis on this
25 item?

DIRECT EXAMINATION OF MEREDITH LANFORD BY MS. BLUNDY

1 A I did not.

2 Q And why not?

3 A Our policy and procedure is for us not to
4 deal with drug paraphernalia unless it is the only
5 thing in the case. If you have a measurable amount
6 of substance in the case, then we don't deal with
7 the drug paraphernalia. Because trying to get in
8 here, you get a lot of breakage of the glass and
9 stuff. So we would rather just deal with the actual
10 substance itself.

11 Q So, hypothetically, and you are an expert,
12 if you had just received item A2 alone in the BEST
13 kit, would you have attempted to run an analysis on
14 it if you saw a substance inside?

15 A Yes.

16 Q But in this case you did not because you
17 received a measurable weight on item A1?

18 A Correct.

19 MS. BLUNDY: At this time the State would move
20 to admit the laboratory report, State's Exhibit 24.

21 THE COURT: Any objection?

22 MS. PORTER: None, Your Honor.

23 THE COURT: So State's Exhibit No. 24 would be
24 admitted without objection.

25 *(Whereupon, State's Exhibit No(s). 24*

DIRECT EXAMINATION OF MEREDITH LANFORD BY MS. BLUNDY

1 *marked for identification and received in*
2 *evidence.)*

3 BY MS. BLUNDY:

4 Q Ms. Lanford, are there any other times
5 while you are analyzing different items, and
6 specifically the methamphetamine, that you won't
7 test a second item? Is there any other times that
8 you won't test another item?

9 A We will not test syringes. And if there
10 is anything that we consider a residue, meaning it's
11 so small of an amount you can't even get a good
12 weight on it.

13 Q Is it fair to say you need a certain
14 amount to actually test?

15 A Yes.

16 Q Okay. Well, let me rephrase that. I
17 mean, is there -- like let's say, .001, would that
18 be significant to render a valid test?

19 A Correct. Anything below .01 grams, we
20 consider that a residue.

21 Q. Okay.

22 MS. BLUNDY: No further questions of this
23 witness. Please answer anything that Ms. Porter may
24 have for you.

25 THE COURT: Ms. Porter.

CROSS EXAMINATION OF MEREDITH LANFORD BY MS. PORTER

1 MS. PORTER: Thank you, Your Honor. May it
2 please the Court.

3 CROSS EXAMINATION

4 BY MS. PORTER:

5 Q Thank you for being here today, Meredith.
6 Just really quickly. As far as the pipe goes, you
7 testified that it would be too difficult to get that
8 residue out without breaking the glass?

9 A Correct.

10 Q Is it fair to say that it would be too
11 difficult for anyone to do the same thing, not just
12 a chemist?

13 A Correct.

14 Q Okay. And your involvement in this case
15 was purely to test those substances, correct?

16 A Correct.

17 Q So you have no idea and can't testify as
18 to who may have possessed these at all?

19 A No, I cannot.

20 MS. PORTER: Thank you. I have no further
21 questions.

22 THE COURT: Anything further of this witness?

23 MS. BLUNDY: Nothing, Your Honor.

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

MOTIONS/COLLOQUY

1 MS. BLUNDY: At this time the State would rest
2 its case.

3 THE COURT: Madam Bailiff, would you take our
4 jury to the jury room please?

5 (The jury exits the courtroom.)

6 THE COURT: The State has rested. Are there any
7 motions?

8 MS. PORTER: Yes, Your Honor. I would move for
9 a directed verdict. Regarding constructive
10 possession, as low a bar as that is, I don't think
11 that the State has presented sufficient evidence to
12 tie Mr. Cantrell to possession of the cardboard box
13 in which the potpourri burner, oil burner -- it's
14 been called both things -- was found. There's no
15 evidence whatsoever about what was actually in that
16 glass pipe.

17 So, we would move for a directed verdict
18 that he did not have constructive possession of
19 the oil burner.

20 THE COURT: Ms. Blundy, anything?

21 MS. BLUNDY: Your Honor, I think at this point
22 the State has produced sufficient facts based on the
23 Defendant's own statements that, you know, knowing
24 where the stuff came from. And also his wanting to
25 help narcotics officers figure out where it came

MOTIONS/COLLOQUY

1 from. Also the dominion and control is the only
2 occupant of that vehicle. There were personal
3 belongings in that vehicle.

4 Which I had given Your Honor the case of
5 Muhammad, State versus Muhammad before, which
6 looks at, you know, three things with that.
7 Mainly the closeness of the relationship
8 between the defendant and the owner. Which
9 here we have boyfriend/girlfriend. The
10 presence of personal belongings, which there
11 was significant testimony about male shoes. I
12 think one even testified that he recognized the
13 orange bandanna. The groceries and that
14 nature.

15 And the degree related to criminal
16 activity, which I think is clear based on the
17 amount of things that were confiscated from the
18 vehicle. I don't think that it has to directly
19 go to the burner in and of itself.

20 THE COURT: Well, I heard the testimony. And
21 ruling on a motion for directed verdict, the Court is
22 concerned with the existence or nonexistence of
23 evidence. To grant a directed verdict I must find
24 that there's no evidence to support the offense
25 charged and there is no direct or circumstantial

MOTIONS/COLLOQUY

1 evidence.

2 I find that the State has produced
3 evidence to support the charges; therefore, I
4 am going to deny your motion. I find that this
5 is a jury question.

6 MS. PORTER: Thank you, Your Honor. I have one
7 additional motion. This is based on due process.
8 Quite frankly I don't have any case law to support
9 it. But the testimony is that these drugs were
10 seized April 6th. A warrant wasn't sought until
11 April 10th. There is no testimony that any
12 additional evidence was gathered between April 6th
13 and April 10th.

14 I think that it just lends itself to an
15 abusive discretion to seize drugs from someone
16 but wait four days to charge them with it and
17 not put them under even a temporary custody
18 order. And again, it just goes to a basic due
19 process and question of fairness.

20 THE COURT: Do you have any statutory or case
21 law that sets a time frame upon which warrants should
22 be issued?

23 MS. PORTER: I don't, Your Honor. And I
24 understand that in some cases, such as murder, you
25 know, something might happen, and there's always

MOTIONS/COLLOQUY

1 discretion when an officer can charge or should
2 charge. But to wait without having any extra
3 evidence, it just opens itself up to -- for everyone
4 to question the fairness of the proceedings, for an
5 officer to decide to charge someone later because
6 they have done something in the interim that they
7 don't like. And that is not relevant to the charge
8 at issue. So, my motion is based purely on due
9 process as we would find in the United States and
10 South Carolina Constitution and issues of basic
11 fairness, et cetera.

12 THE COURT: All right. Ms. Blundy, any
13 response?

14 MS. BLUNDY: Your Honor, I'm not aware of any
15 case law that prohibits the actions of the officers.
16 It is pretty routine in narcotics cases when they are
17 working with agents to maybe hold the charges for a
18 couple of days. I am not certain that that is what
19 happened here, but we are talking about four days,
20 not four years. And I wouldn't see that this case
21 would have any other standard than a murder case.
22 Certainly the officers are free to charge if they
23 seek an independent warrant from a magistrate.

24 THE COURT: Well, the Court is not aware of a
25 limit of the time requiring an officer to issue

MOTIONS/COLLOQUY

1 charges in a certain period of time. Certainly a
2 Defendant's remedy, if he feels like he's being
3 incarcerated without resolution, would be a motion
4 for a speedy trial. But that was not applicable in
5 the case, Mr. Cantrell was able to post bond and get
6 out. He was out yesterday when he appeared briefly.

7 But I'm not aware of any law that requires
8 an officer to issue a warrant within a certain
9 period of time. So I am going to deny your
10 motion on that ground.

11 MS. PORTER: Thank you, Your Honor.

12 THE COURT: Does the Defense plan on calling any
13 witnesses?

14 MS. PORTER: We do not, Your Honor.

15 THE COURT: Ms. Porter, what I will do is I will
16 bring the jury back in and I will allow you to rest
17 on the record. And at that point we will proceed
18 with closing arguments since the Defense is not
19 putting up any evidence. Defense will get the last
20 argument.

21 So I will use this opportunity to discuss
22 jury charges. You each have heard my standard
23 charges on any criminal case. General charge
24 on the responsibility of the judge and jury.
25 Direct and circumstantial evidence.

MOTIONS/COLLOQUY

1 Credibility of witnesses. Expert witnesses.
2 Reasonable doubt. Presumption of innocence.
3 Failure of Defendant to testify. And like I
4 said earlier, I'll add the phrase "and appear"
5 in that charge. Criminal intent.
6 Charge/arrest/indictment not evidence.

7 And then I have the case specific charge
8 on possession of methamphetamine, which defines
9 actual and constructive possession. And then a
10 final part of my charge instructs them on their
11 deliberations. Is there anything else that
12 either side requests?

13 MS. BLUNDY: I do, Your Honor. I have a jury
14 charge that I would like to submit under U.S. versus
15 Pendergraph. And in that case, which is still valid
16 law, it states that possession may not be exclusive
17 but may be shared with others with proof by
18 circumstantial or direct evidence. And I have a copy
19 of the case, Your Honor. If you would consider
20 charging the jury that as well. I think it is
21 relevant in this case based on who owned the car, and
22 the jury to consider that.

23 MS. PORTER: And I would just request, Your
24 Honor, that we insert that possession need not be
25 exclusive, but the Defendant does need to have

MOTIONS/COLLOQUY

1 knowledge that the items are there.

2 MS. BLUNDY: And I have no disagreement with the
3 Defendant needs to have knowledge. I think that is
4 what the case law -- the train of cases has gone
5 down.

6 THE COURT: I will just -- I will reiterate. It
7 is in the other charge, but I'll reiterate that the
8 Defendant must have knowledge of the substance.

9 MS. BLUNDY: I think it's language --

10 THE COURT: Well it says, Actual knowledge,
11 actual or -- well, because the charge says, the
12 standard charge says, Actual knowledge of the
13 presence of methamphetamine is strong evidence of
14 Defendant's intent to control for distribution or
15 use. Defendant's knowledge of possession may be
16 inferred when the substance is found on the property
17 under the Defendant's control. However, this is
18 simply an evidentiary fact to be taken into
19 consideration along with the other evidence in the
20 case, and given the weight that you decide it should
21 have. That is the standard charge.

22 I don't know -- possession may not be
23 inclusive, but may be shared with others as
24 direct or circumstantial evidence. That is
25 good law. But I'm trying to figure out how we

MOTIONS/COLLOQUY

1 would add the knowledge.

2 MS. BLUNDY: I think as long as the knowledge
3 part where it says, The accused must have the intent
4 to control the disposition or use of the drugs, that
5 that would be sufficient if it is in the standard
6 charge. As long as it's in the standard charge.

7 THE COURT: The knowledge provision is in the
8 standard charge. I don't know how --

9 MS. PORTER: I think that we could just say, The
10 Defendant must have knowledge either through actual
11 or constructive possession, which I have just
12 explained to you.

13 THE COURT: Well, that is consistent with
14 what -- I'll just -- it is somewhat repetitive, but
15 I'll do that.

16 MS. BLUNDY: Thank you, Your Honor.

17 MS. PORTER: Just one procedural question. So,
18 I'll rest on the record. Do I then need to renew my
19 objections to preserve them for appellate review, or
20 since I'm not putting up a defense do I need --

21 THE COURT: Just state that you renew your
22 motion for the record.

23 MS. PORTER: Okay. Thank you, Your Honor.

24 THE COURT: Anything further? If you need to
25 take a short break before we bring them in, let's do

MOTIONS/COLLOQUY

1 that right now.

2 (Brief recess.)

3 THE COURT: What is the problem?

4 MS. BLUNDY: I guess I didn't move to admit 20,

5 which is Juan's initial chain, part of his chain.

6 But there is no issues with the chain. Obviously the

7 drugs came into evidence, but I don't think I -- I

8 talked about it, I published it.

9 THE COURT: Twenty was identified, but it was
10 not admitted into evidence.

11 MS. BLUNDY: Okay. Then that one just needs to
12 stay back.

13 MS. PORTER: I'm not going to argue that there's
14 an incomplete chain, I would just -- I don't think
15 that it's proper to send it back into the jury room.

16 THE COURT: It is not in evidence. Okay. All
17 right. Let's get our jury.

18 (The jury enters the courtroom at 3:43
19 p.m.)

20 THE COURT: All right. The State has rested.
21 Ms. Porter.

22 MS. PORTER: Thank you, Your Honor. At this
23 time the Defense also rests. For the record, I would
24 renew the objections that have already been made to
25 Your Honor.

CLOSING ARGUMENT BY THE STATE

1 THE COURT: So noted for the record.

2 MS. PORTER: Thank you, Your Honor.

3 THE COURT: All right. Ladies and gentlemen,
4 that ends the evidentiary stage of this trial. The
5 next stage of the trial will be closing arguments.
6 The attorneys will have an opportunity to make
7 closing arguments to you. The State will go first,
8 and then the Defense will respond after that. I will
9 charge you on the law. Ms. Blundy.

10 CLOSING ARGUMENT BY THE STATE

11 MS. BLUNDY: Thank you, Your Honor. I opened
12 this trial with some of the Defendant's statements,
13 and I'm going to close the trial with some of the
14 Defendant's statements. Why? Because they are super
15 important in analyzing this case.

16 And he said, I will tell you where this
17 shit is coming from. Now, he wasn't talking
18 about a cuss word, he was talking about
19 methamphetamines. He knew where they were
20 coming from. Think about that for a moment.
21 Why did he know where they were coming from?
22 Because he uses methamphetamines. He knows
23 where to get them. He knows where to buy them.

24 They were his drugs inside that car. Yes,
25 it was his girlfriend's car. The State is not

CLOSING ARGUMENT BY THE STATE

1 contesting that. Laura Burnhart's car, we got
2 it. And, yes, there were female items inside
3 that car. Not contesting that. Female items.
4 There were also male items all throughout that
5 car.

6 This was not just her car. He used this
7 car too. Even though he didn't have a valid
8 driver's license. He was driving under
9 suspension multiple times. Driving a car even
10 though he didn't have a license, driving her
11 car. She let him. They are in a relationship.
12 Understandable.

13 But how do we know they are his? Because
14 he told the officers. He told the officers.
15 Now he didn't say, Those are my drugs. He
16 didn't say that. Oh, but he did say, That is
17 my weed. Why did he say that that was his
18 weed? Because it is just weed. He was hoping
19 the officers were like, Okay, he's being cool,
20 he's telling us where the weed is, maybe they
21 wouldn't search the rest of the car if he told
22 them exactly where that weed was. That is what
23 he was hoping for.

24 He didn't want them to look through every
25 little thing inside that car. And there was a

CLOSING ARGUMENT BY THE STATE

1 lot of things inside that car. But these
2 officers were diligent. These officers knew.
3 These officers had been on the road long enough
4 to know that there was more substances in that
5 car. They also had the assistance of a drug
6 dog, Kimber. She is cute and cuddly until she
7 goes around the car and you hear her bark. But
8 she has the scent to know that there were items
9 in that car.

10 You heard the testimony ad nauseam about
11 the certifications, what Officer McCall has to
12 go through to handle a dog like that. You saw
13 her bark. You saw her stop. She didn't make
14 that second pass around the vehicle. And they
15 don't force her to. As soon as she alerts she
16 is telling the officers, yep, what you already
17 believe, you are right, I can smell it, there
18 is drugs inside this car.

19 It wasn't just marijuana though. Even
20 though the window is down. Even though the
21 Defendant had admitted to marijuana being in
22 the floorboard. If you listen to that video
23 carefully, he is like, Yeah, it is on the
24 floor. On the floor with all of the other
25 stuff. But he knew where it was.

CLOSING ARGUMENT BY THE STATE

1 My point is, if he knew where the
2 marijuana was, he knew where the
3 methamphetamine was. He knew. And he didn't
4 want the officers to continue on in the search.
5 We talked about possession, and how in South
6 Carolina it is illegal to buy and sell
7 methamphetamine, but it's illegal to possess
8 methamphetamine.

9 And I asked a question on the stand of the
10 officers, Was the methamphetamine within his
11 reach? Was that car in his dominion and
12 control? Yes. He was the only driver of that
13 car. He was the only occupant in that car.
14 His girlfriend wasn't in the car with him. He
15 was in that car. He was in control of the
16 premises of that car.

17 I do have to prove knowledge. But he
18 doesn't have to come out and say, Those drugs
19 are mine. But he did, he did. And that is
20 where you come in to analyze the facts. He
21 says, I can help you. If you help me, I will
22 help you. I will tell you where this meth is
23 coming from.

24 And so the warrant is held for a few days.
25 He was going to be a rat. He was willing to be

CLOSING ARGUMENT BY THE STATE

1 a rat. He was willing to tell these officers
2 who are the big dogs, who are the big dogs that
3 I'm buying from. They were his drugs.

4 And not only that, it's not just the mere
5 presence of drugs. Not one pipe, three. Okay,
6 maybe one pipe is used for marijuana, because
7 there was some testimony about marijuana being
8 in the metal pipe. Both officers testified to
9 a white crystal substance inside the metal
10 pipe. There was a white crystal substance in
11 the metal pipe. You heard Meredith, their
12 policy is they don't test the pipes. Too
13 risky, glass would break, it would be a mess.
14 They don't do it. They just don't do it.

15 But both officers testified to seeing a
16 white crystal residue inside the pipe. And you
17 will get these pictures back with you when you
18 deliberate, and I challenge you to look at
19 them. Look at them closely. Because if you
20 do, and when you get this back you will see it
21 better because it will be closer, you will see
22 particles. You will see particles here, and
23 you will see particles in here. This one is a
24 little clearer, you can kind of see it on the
25 end.

CLOSING ARGUMENT BY THE STATE

1 Officer Hernandez did a really good job in
2 describing to us the different ways that meth
3 can be used. And he said you can smoke it,
4 which is where the torches came in. A couple
5 of torches. They heat it up, they smoke it
6 through the pipe. Those were also found in the
7 car, which lends to using drugs, knowing the
8 drugs are in there.

9 And we have the infamous burner. This is
10 where the methamphetamine that had enough to be
11 able to test was found. And you will get to
12 look at it in the jury room. If you need
13 gloves, just ask. You can look at it. And you
14 can see that there's still what the officer
15 testified to, cotton pieces in the top. And he
16 went into length how someone would inject it.
17 It goes through the cotton and you use it that
18 way as a liquid.

19 The Defense wants you to believe that this
20 is a female item, a female thing to burn
21 potpourri. I think she referred to it as
22 potpourri several times. No. This was used as
23 a bowl to smoke or inject methamphetamine and
24 melt it. This is really an item that a male
25 would buy, let's be honest. Meth, this is what

CLOSING ARGUMENT BY THE STATE

1 he had, .19 grams. He is a user. Here is the
2 pipe. You get to look at that too. All of
3 that was intact.

4 And I went through long testimony about
5 the chain of custody. But it's important for
6 you to know why they do all of that. Because
7 the officers are telling you, Look, this is
8 what we did from point A to point B. Nothing
9 was messed with, nothing was tampered with.
10 This went exactly to the lab as we got it from
11 the Defendant. And that is important. It is
12 important to have integrity in the case. And
13 these officers showed that the whole way
14 through.

15 I want to get back to a couple of other
16 items found in the car. Scales. You heard
17 testimony about how users will weigh it out,
18 make sure they are getting the proper amount.
19 You can even see some residue on the scale. Oh
20 my, that is a lot of things. Weapons goes
21 along with drugs. Machetes, two of them.
22 Brass knuckles which were found on his body.
23 The grinder, the torch, multiple cell phones.

24 Interesting. When he asked Officer
25 Hernandez for his cell phone he said, Oh, it is

CLOSING ARGUMENT BY THE STATE

1 the phone with the crack in it. He knew there
2 were other phones in that car. He knew the
3 items in that car. He didn't ask him which
4 phone is it. The Defendant said, Oh, it is the
5 one with the crack in it. Why? Because he
6 used them to get the drugs.

7 You are sitting in a car. You are in the
8 driver's seat, and the passenger's seat is
9 here, you are not going to miss two giant
10 machetes by your side. He knew the articles in
11 that vehicle. But the critical analysis comes
12 in as to how. And that is where his statements
13 about knowing where it's coming from become
14 very important. He didn't say that one time.
15 He said it multiple times on the video. And
16 I'm sorry that you got your exercise in this
17 video, and that is just the way it is
18 sometimes, but there were things that I wanted
19 you to hear. He said, I can do something for
20 y'all, can't I. Get me out of this is what
21 he's saying.

22 That is not the only thing he says. I
23 already told you, he said, I'll tell you where
24 the shit is coming from. He said, Can I talk
25 to a narcotics officer right now basically.

CLOSING ARGUMENT BY THE STATE

1 Right now. I want to talk to him right now.
2 And he said, You can't. He works nights, he is
3 not here, he is not going to come and talk to
4 you right this very second. He said, Call him
5 right now and I'll tell you everything. He
6 wasn't going to tell them everything right
7 away, he wasn't. These officers knew better.

8 You heard Officer Hernandez testify under
9 oath. He had no qualms about charging Mr.
10 Hernandez (SIC) with this crime. He knew that
11 the drugs belonged to him. He charged him with
12 possession of methamphetamine. He knew that by
13 the things that he observed, the car itself,
14 the admissions from the Defendant, how he knew
15 other things were in the vehicle.

16 And come to the glove box. I do want to
17 touch on this. The State is not saying that
18 people don't keep their registration and
19 insurance in their glove box. That is common.
20 We know that. But it's not common to know
21 exactly where they are, and what folder they
22 are in if you don't know whose car it is. If
23 you are brand new to a car you are not going to
24 know, reach exactly for it and go, Here you go.
25 You are going to fumble. And I submit to you,

CLOSING ARGUMENT BY THE DEFENSE

1 he did not fumble. If you watch that video, he
2 reaches over, he grabs it and he hands it to
3 them. My point is, he wasn't digging, because
4 he didn't have to. He knew.

5 Back to the possession for one moment.
6 The Defense wants you to believe that he had to
7 have ownership of these drugs. No, he doesn't.
8 She even used an example about coming over to
9 this microphone and saying, Oh, I'm touching
10 it, now I own it. No, that is not what we are
11 here for. We are here for possession.

12 Possession is different than ownership.
13 If I took -- and I don't want to take your
14 recorder. But if I took the recorder and I
15 slipped it in my pocket, guess what?
16 Possession. That is exactly what I'm talking
17 about. They were his. He is guilty. Find him
18 guilty.

19 THE COURT: Ms. Porter.

20 CLOSING ARGUMENT BY THE DEFENSE

21 MS. PORTER: Thank you, Ms. Blundy. And may it
22 please the Court. I told you all at the beginning of
23 this case that this is about a government that has
24 just gotten too powerful. A government that can
25 arrest someone, and not just hold a warrant for four

CLOSING ARGUMENT BY THE DEFENSE

1 days, as Ms. Blundy just suggested, but wait four
2 days to go get that warrant.

3 A government that can decide to spend a
4 lot of money getting a dog trained just to
5 needlessly run it around a car it already had
6 the right to search. A government that can
7 drag a jury into a courtroom for a case
8 involving what Meredith Lanford described as
9 residue on a potpourri burner.

10 Now, Ms. Blundy just said I would have you
11 believe this is a potpourri burner. This is
12 Exhibit 24, which is in evidence. This will go
13 back with you. The government called this a
14 clear plastic zip lock bag containing a ceramic
15 potpourri burner. I didn't come up with that
16 on my own, the government did. I'm not saying
17 that this is a female design. But we will get
18 to that in a minute.

19 This is also, getting back to that
20 powerful government, a government that can say
21 a potpourri burner under a load of female
22 clothes in a car owned by a female, which Ms.
23 Blundy just suggested that I'm suggesting that
24 this car was brand new to my client. I'm not
25 suggesting that. It was his girlfriend's car.

CLOSING ARGUMENT BY THE DEFENSE

1 I'm not saying this was the first time he ever
2 drove it. But did he know what was in that box
3 covered with a bunch of female clothes?

4 Again, we will get back to that knowledge
5 in just a minute. But, again, a powerful
6 government that can say an oil burner under a
7 load of female clothes in a female's car was in
8 direct possession, and then decide that my
9 client knew about it. That is a powerful
10 government.

11 So, let's talk a little bit more about
12 constructive possession. And ultimately the
13 Judge is going to tell you what the law is.
14 And what Ms. Blundy tells you, what I tell you,
15 we are not the judge of the law. So I want you
16 to listen very carefully to what Judge Sprouse
17 instructs you on when he gives you his jury
18 charge.

19 But for constructive possession the
20 government has to prove, not just that my
21 client had dominion and control over this box,
22 that he could reach it, that he could control
23 its disposition is the legal mumbo jumbo you
24 will hear. They have to prove to you that my
25 client knew that was there. And constructive

CLOSING ARGUMENT BY THE DEFENSE

1 possession, the law allows you to infer or
2 guess that my client knew it was there. It
3 does not require you to make that inference, or
4 to make that guess. You don't have to. You
5 are the ultimate deciders of the facts. Not
6 Ms. Blundy, not the government, not me. All of
7 you.

8 Now, we heard from a renowned chemist, and
9 no one is questioning her qualifications.
10 She's brilliant. She told you that there was
11 residue that she scraped off of this burner.
12 Again, she can't -- and she testified, she
13 can't tell you anything about who possessed it
14 or whether my client knew that it was there.
15 She can't tell you anything about what is in
16 this pipe. Why? Because she didn't do any
17 analysis on it. It is right there. Right
18 there on the government's own document. We
19 don't know. They cannot prove beyond a
20 reasonable doubt what was in that pipe.

21 All right. So, what are some reasons that
22 you shouldn't infer, or you shouldn't guess
23 that my client knew it was in there? As I
24 said, it is not his car. It was owned by his
25 girlfriend. We know his girlfriend drove it

CLOSING ARGUMENT BY THE DEFENSE

1 because there was a citation in there for
2 disregarding a stop sign. You don't get a
3 citation for being a passenger in a car when
4 your boyfriend runs a stop sign. She drove it.
5 It was registered to her. This was found under
6 a bunch of female clothes.

7 Now, there was some question in the
8 testimony and cross examination, the redirect,
9 about whether my client went directly to where
10 the registration and the proof of insurance
11 were in that glove box. You have the right to
12 ask this Judge to come back out and re-watch
13 any portions of that video that we have shown
14 you. If there's any doubt in your mind about
15 whether he went directly to where it was, or if
16 you need to go back and look and be absolutely
17 certain. Because this is an important case.
18 It is a simple case, but it is an important
19 case. If you need to see that again, ask. The
20 Judge will allow you to watch and see just how
21 long he sifted through that glove box to find
22 where those documents were.

23 Ms. Blundy, the government, has made a lot
24 of -- a lot to-do about my client saying he
25 knew where the drugs were coming from. Well,

CLOSING ARGUMENT BY THE DEFENSE

1 that is a lot different than knowing the drugs
2 are in the car. Someone who dates someone who
3 uses methamphetamine, not that far of a reach
4 to think they know who she is buying it from.
5 That is all he had to tell police to work for
6 them, to help them find the dealers in their
7 community. He didn't have to use it to know
8 where his girlfriend buys meth or anything
9 else. That is what he wanted to talk to
10 Officer Hernandez about.

11 Now, the government has also made a lot
12 to-do about my client knowing exactly where
13 that marijuana was. Well, someone who had
14 marijuana, maybe in their pocket while blue
15 lights came on, it makes a lot of sense that
16 they might pick that up and throw it right
17 there in the passenger's floor board. It
18 doesn't mean that he knows where everything
19 else in that car is, or what else is in that
20 car. That is a leap.

21 I also want to talk about the scales that
22 Ms. Blundy pointed out to you. Just like that
23 pipe, there's no testing done. They can't tell
24 you what that is. Officer Hernandez says it's
25 not scratches, it doesn't mean it's not

CLOSING ARGUMENT BY THE DEFENSE

1 something else. It could be another controlled
2 substance, but are you firmly convinced that
3 it's methamphetamine? You don't have any
4 testimony from any chemist telling you that it
5 is.

6 The government also told you that, maybe
7 Mr. Cantrell told them he knew exactly where
8 the marijuana was because he thought they
9 wouldn't search the rest of the car. Well, you
10 heard from the officers, once they make an
11 arrest they have to do an inventory. They have
12 to search the rest of the car before it's
13 towed. That doesn't make sense. It is not
14 logical.

15 The government also said something about
16 whether I owned this microphone because I could
17 reach for it. Well, I asked another question.
18 I asked the officer, just because I can reach
19 into this court reporter's pocket, does that
20 mean I know what is in there. And he said, No.
21 Just because my client could have turned around
22 and sifted through a big box of female clothes
23 doesn't mean that he knew what was in there.

24 So, getting back to what I said about
25 powerful government. I told you this morning

CLOSING ARGUMENT BY THE DEFENSE

1 that juries are one of the most important
2 checks on the powerful government. This is
3 your chance, a unique chance that citizens do
4 not often get to stand up to the government and
5 tell them, No, no, you can't be this powerful.

6 Briefly, my client is not on trial right
7 now for possessing marijuana, for possessing
8 any of these weapons, not for driving under
9 suspension. There were other arrests made that
10 day, and those have all been disposed of.
11 Those charges have been handled. That is what
12 Officer Hernandez told you. There's only one
13 question left, did he know this potpourri
14 burner, again not my words, the government's
15 words, did he know that was in the bottom of
16 that box of female clothes. You are to
17 disregard all of that other evidence of
18 wrongdoing when you decide whether or not Mr.
19 Cantrell knew that methamphetamine residue was
20 in that car.

21 So, when you go back to that jury room,
22 you are to start from the presumption that my
23 client is innocent. Judge Sprouse told you
24 that at the beginning of this trial. He is
25 presumed innocent until the State or the

JURY CHARGE

1 government has proved beyond a reasonable doubt
2 everything that they have to prove to convince
3 you, to firmly convince you, that he possessed
4 methamphetamine. Only if you feel they have
5 proved that beyond a reasonable doubt can you
6 vote to find him guilty.

7 I know you are smart enough to see this
8 for what it is. There is a question that Judge
9 Sprouse asked when he was qualifying you all as
10 jurors, and I used to wonder a lot about that
11 question. He asked if anyone had less than a
12 sixth grade education. Why sixth grade?
13 Because all it takes for you to analyze this
14 case is common sense. You don't have to have
15 all of the degrees that Meredith Lanford had,
16 has. You don't have to have a law degree like
17 Ms. Blundy and I have, you just need common
18 sense. Like I said, I know you are smart
19 enough to see this for what it is.

20 I also know that you are brave enough to
21 stand up to this government and tell them, No,
22 Mr. Cantrell is not guilty of possessing
23 methamphetamine.

24 JURY CHARGE

25 THE COURT: Ladies and gentlemen, we have come

JURY CHARGE

1 to point in the trial where I instruct you on the
2 law. My instructions will be somewhat lengthy.
3 First, instructions on the general rules that define
4 and control the jury's duties. Second, instructions
5 that state the rules of law that you must apply.
6 What the State must prove to make its case. And
7 lastly, some rules for your deliberations.

8 The general rule will begin with your
9 duties as jurors. It is your duty to find the
10 facts from the evidence in the case. To those
11 facts you must apply the law as I give it to
12 you. You shall not be concerned with what the
13 law should be, but what it is. And you must
14 not be influenced by any personal likes, or
15 dislikes, or opinions, prejudices, or undue
16 sympathy. That means that you must decide the
17 case solely on the evidence before you in
18 accordance with the law. The very thing that
19 you took an oath to do at the beginning of the
20 trial.

21 It is your responsibility, and yours
22 alone, to determine the facts of this case. I
23 will therefore charge you that if, during the
24 course of this trial or during this charge, you
25 have been given or left with the feeling that I

JURY CHARGE

1 have an opinion about the case or that I favor
2 one side or the other, I would specifically
3 instruct you to disregard that opinion. Under
4 our Constitution I am not allowed to have an
5 opinion as to the facts of the case. You
6 should not be influenced by any objections or
7 the Court's ruling on them. You and you alone
8 are the judges of the facts.

9 You determine the facts by evaluating or
10 weighing the evidence that you have heard
11 during the trial. What is evidence? The
12 evidence is the sworn testimony from the
13 witnesses and any exhibits that have been
14 entered into evidence. The statements by the
15 attorneys are not evidence. What they have
16 said in opening statements, closing arguments,
17 and at other times is intended to help you
18 interpret the evidence, but it is not evidence.

19 There are two types of evidence which are
20 generally presented during a trial -- direct
21 evidence and circumstantial evidence. Direct
22 evidence directly proves the existence of a
23 fact and does not require deduction.
24 Circumstantial evidence is proof of a chain of
25 facts and circumstances indicating the

JURY CHARGE

1 existence of a fact. Crimes may be proven by
2 circumstantial evidence. The law makes no
3 distinction between the weight or value to be
4 given to either direct or circumstantial
5 evidence.

6 However, to the extent that the State
7 relies on circumstantial evidence, all of the
8 circumstances must be consistent with each
9 other, and when taken together, point
10 conclusively to the guilt of the accused beyond
11 a reasonable doubt. If the circumstances
12 merely portray the Defendant's behavior as
13 suspicious, the proof has failed. The State
14 has the burden of proving the Defendant guilty
15 beyond a reasonable doubt. The burden rests
16 with the State whether the State relies on
17 direct evidence, circumstantial evidence, or a
18 combination of the two.

19 As judges of the facts you are the sole
20 judges of the credibility. That is the
21 believability of the witnesses who have
22 testified in this case. In determining their
23 credibility, you may take into consideration
24 many things, such as the appearance and manner
25 of the witness on the stand, sometimes referred

JURY CHARGE

1 to as the demeanor of a witness.

2 Was a witness able to see, hear, and know
3 the things about which the witness testified?
4 How well was the witness able to recall and
5 describe those things? Did the witness have a
6 cause or reason to be biased or prejudiced in
7 favor of the testimony he or she gave? How
8 reasonable was the witness's testimony,
9 considered in the light of all of the evidence
10 in the case? Was the witness's testimony
11 contradicted by what the witness had said or
12 done at another time, or by the testimony of
13 other witnesses, or by other evidence? These
14 are some of the factors that you may consider
15 in deciding whether to believe testimony.

16 As jurors you have the right to believe
17 all of the testimony of a witness or none of
18 the testimony of a witness. You have a right
19 to believe a portion of the testimony of a
20 witness and discard the rest. You may believe
21 the testimony of one witness over the many or
22 the many over the one. Most certainly you do
23 not determine the matter of credibility by
24 simply counting up the number of witnesses who
25 may have testified on behalf of the parties in

JURY CHARGE

1 the case.

2 Normally, ladies and gentlemen, a person
3 cannot give opinion testimony. Normally a
4 person must testify to what they either saw,
5 heard, or sensed by smell or something of that
6 nature. However, there is an exception when
7 someone is qualified as an expert because of
8 education or experience.

9 They are permitted to give their opinion
10 in certain areas if the Court qualifies them an
11 expert in that area. This does not mean that
12 you are required to accept that opinion. Like
13 any other witness, you may place whatever
14 weight on that person's testimony that you, as
15 the judge of the facts, deem appropriate.

16 What is a reasonable doubt in the law? A
17 reasonable doubt is the kind of doubt that
18 would cause a reasonable person to hesitate to
19 act. Some of you may have served as jurors in
20 civil cases where you were told that it was
21 only necessary to prove that a fact is more
22 likely true than not true, such as by the
23 greater weight or preponderance of the
24 evidence. In criminal cases, the State's proof
25 must be more powerful than that, it must be

1 beyond a reasonable doubt.

16 A reasonable doubt may arise from the
17 evidence or from the lack of evidence. The
18 Defendant is entitled to every reasonable doubt
19 that may arise in the case. If upon any issue
20 of fact essential to a conviction and a verdict
21 of guilty for an offense, if you have any
22 reasonable doubt as to how that issue should be
23 resolved, it is your duty to resolve that in
24 favor of the Defendant.

25 Suspicion, however strong, is not enough

JURY CHARGE

1 to sustain a conviction. The evidence
2 presented by the State must be substantial
3 evidence that tends to prove the guilt of the
4 Defendant beyond a reasonable doubt.

5 The Defendant has entered a plea of not
6 guilty to this indictment. And that plea puts
7 the burden on the State to prove the Defendant
8 guilty. A person charged with committing a
9 criminal offense is never required to prove
10 himself innocent.

11 I charge you that it is an important rule
12 of law that a defendant in a criminal trial, no
13 matter what the seriousness of the charge may
14 be, will always be presumed innocent of the
15 crime for which the indictment was issued,
16 unless guilt has been proven by the evidence
17 satisfying you of that guilt beyond a
18 reasonable doubt.

19 The presumption of innocence does not end
20 when you begin your deliberations, but it
21 accompanies the Defendant throughout the trial
22 until you reach a verdict of guilt based on
23 evidence satisfying you of that guilt beyond a
24 reasonable doubt. Presumption of innocence is
25 not mere legal theory, it is not just a legal

JURY CHARGE

1 phrase, it is a substantial right to which
2 every Defendant is entitled unless you the jury
3 are satisfied from the evidence of the
4 Defendant's guilt beyond a reasonable doubt.

5 I instruct you, and emphasize that the
6 fact that the Defendant did not appear and
7 testify is not a factor to be considered by you
8 in any way in your deliberation and in your
9 considerations on the questions of guilt or
10 innocence of the Defendant. It must not be
11 considered by you in any manner whatsoever. A
12 Defendant has a Constitutional right to remain
13 silent. And the assertion of this right must
14 not be considered by you in your deliberations.
15 I repeat, under oath, you are to draw no
16 conclusions whatsoever from the fact that the
17 Defendant in this case did not appear and
18 testify. The fact that this Defendant did not
19 testify should not even be discussed in the
20 jury room.

21 The burden of proof, as I have stated to
22 you, is on the State. The Defendant is not
23 required to prove his innocence. The burden of
24 proof remains on the State to prove guilt
25 beyond a reasonable doubt.

JURY CHARGE

1 In order to establish criminal liability,
2 criminal intent is required. For example, a
3 mental state required to be proven by the State
4 for a particular crime might be purpose,
5 intent, knowledge, recklessness, or criminal
6 negligence. Criminal intent must be proven by
7 the State beyond a reasonable doubt. Criminal
8 intent is always a matter that must be
9 determined by the jury from the circumstances
10 surrounding the situation.

11 There's no way to prove intent to a
12 mathematical certainty. There is no way that
13 medical science can dissect a person's brain
14 and determine what the person had in mind. So,
15 the law says that criminal intent may be
16 inferred from the circumstances shown to have
17 existed. This is how you make a determination
18 of whether or not the element of criminal
19 intent was present.

20 It's not necessary to establish intent by
21 direct and positive evidence, but intent may be
22 established by inference in the same way as any
23 other fact by taking into consideration the
24 acts of the parties and all of the facts and
25 circumstances of the case. Criminal intent is

JURY CHARGE

1 mental state, a conscious wrongdoing. It is up
2 to you to determine what the Defendant intended
3 to do based on the circumstances shown to have
4 existed.

5 The indictment charges the Defendant with
6 possession of methamphetamine. I remind you
7 that the fact that the Defendant was arrested,
8 charged, and indicted in this case is not
9 evidence in this case and cannot be considered
10 by you as evidence of guilt in the case, nor
11 does it create any presumption or inference of
12 guilt. These documents are simply the formal,
13 written instruments which contain the charges
14 made against the Defendant, the formal
15 documents by which the case is brought into
16 court.

17 The Defendant is charged with possession
18 of methamphetamine. To prove possession the
19 State must prove beyond a reasonable doubt that
20 the Defendant had both the power and the intent
21 to control the disposition or use of the
22 methamphetamine. Possession may be actual or
23 constructive. Actual possession means that the
24 methamphetamine was in the actual physical
25 custody of the Defendant. Constructive

JURY CHARGE

1 possession means that the Defendant had
2 dominion and control or the right to exercise
3 dominion or control over either the
4 methamphetamine itself or the property on which
5 the methamphetamine was found.

6 Mere presence at the scene where the drugs
7 were found is not enough to prove possession.
8 Actual knowledge of the presence of
9 methamphetamine is strong evidence of the
10 Defendant's intent to control its disposition
11 or use. The Defendant's knowledge and
12 possession may be inferred when a substance is
13 found on the property under the Defendant's
14 control. However, this inference is simply an
15 evidentiary fact to be taken into consideration
16 by you, along with the other evidence in the
17 case, and to be given the weight you decide it
18 should have.

19 Possession may not be exclusive, but may
20 be shared with others with proof by
21 circumstantial or direct evidence. The
22 Defendant must have knowledge through actual or
23 constructive possession.

24 Ladies and gentlemen, we are almost to the
25 point where I send you to the jury room for

JURY CHARGE

1 your deliberations. This has been a long
2 instruction on the law, but I want to leave you
3 with some final thoughts. You were chosen as
4 jurors because both sides believed that you
5 could be fair and impartial in deciding this
6 case. I instruct you to make use of your life
7 experiences, your good common sense, and your
8 sense of logic and reason in evaluating the
9 evidence in this case.

10 You are not partisans or advocates for
11 either side. You have no friends to reward nor
12 any enemies to punish. You are the judges of
13 the facts. Your sole interest is to determine
14 whether the State has proven the charge beyond
15 a reasonable doubt. Be courteous with one
16 another, listen to the views of your fellow
17 jurors. Take the amount of time necessary for
18 you to thoroughly evaluate the evidence in this
19 case. This case is important to both sides, as
20 this is their day in court.

21 Now, Madam Forelady, I'm going to go over
22 the verdict form with you. It is a one-page
23 verdict form, and it has two options. It says,
24 We the jury unanimously find on Indictment
25 Number 2019GS37-1238, that the Defendant, Randy

JURY CHARGE

1 Lee Cantrell, is: And it gives you the first
2 option, not guilty of possession of
3 methamphetamine; or guilty of possession of
4 methamphetamine. Whichever the jury decides,
5 you will check the appropriate box. There is a
6 line for you to sign that, date it and sign it.
7 Your verdict must be unanimous.

8 So, what I'm going to do is send you to
9 the jury room now. Do not begin your
10 deliberations until I send the verdict form
11 with the exhibits back to the jury room. So,
12 Madam Bailiff, would you take our jury to the
13 jury room?

14 (The jury exits the courtroom at 4:24
15 p.m.)

16 THE COURT: All right. Any exceptions to the
17 charge from the State?

18 MS. BLUNDY: None, Your Honor.

19 THE COURT: Any exceptions from the Defense?

20 MS. PORTER: None, Your Honor.

21 THE COURT: Okay. Have both parties come
22 forward, count the exhibits, make sure that they are
23 all there, and then we will send them and the verdict
24 form back.

25 (Pause.)

VERDICT

1 THE COURT: Do we have the exhibits?

2 MS. BLUNDY: Yes, Your Honor.

3 THE COURT: Okay. Here is the verdict form.

4 Grab this and take the verdict form back. And as
5 soon as you get there tell them that they can begin
6 their deliberations. But I need the alternate back
7 in here.

8 (Evidence taken to the jury.

9 Deliberations begin at 4:28 p.m.)

10 THE COURT: Madam Alternate, the rest of your
11 fellow jurors made it to the end, so that concludes
12 your service.

13 THE JUROR: Gees, I don't get to find out the
14 rest? I would like to. Can I?

15 THE COURT: Yes, ma'am. I need you to have a
16 seat out here. And you may stay if you would like
17 to.

18 THE JUROR: I have come this far.

19 THE COURT: Yes. And we will be in recess.

20 (Jury deliberating.)

21 (The jury enters the courtroom at 5:22
22 p.m.)

23 THE COURT: Madam Forelady, has the jury reached
24 a verdict?

25 MADAM FORELADY: We have.

JURY RELEASED BY THE COURT

1 THE COURT: All right. Would you hand that to
2 the bailiff, please, ma'am?

3 THE CLERK: In the matter of the State of South
4 Carolina versus Randy Lee Cantrell, we the jury
5 unanimously find on Indictment Number 2019GS37-1238
6 on the possession of methamphetamine, that the
7 Defendant, Randy Lee Cantrell, is guilty of
8 possession of methamphetamine.

9 Ladies and gentlemen of the jury, if this
10 was your verdict and remains your verdict,
11 please indicate so by raising your right hand.

12 (Jurors raise their right hands.)

13 THE CLERK: Let the record reflect that all
14 Members of the Jury have affirmed their verdict.

15 THE COURT: All right. Anything from either
16 side before I dismiss the jury?

17 MS. BLUNDY: No, Your Honor.

18 MS. PORTER: Nothing, Your Honor.

19 THE COURT: Ladies and gentlemen of the jury,
20 thank you for your service. We have resolved all of
21 the cases that were on the jury docket. The second
22 one, y'all were back in the jury room but I had the
23 rest of the pool come back at 2:00 and that was
24 supposed to be the next trial, and that ended up in a
25 guilty plea.

JURY RELEASED BY THE COURT

1 And the other cases were -- we had another
2 one that, sometimes people come to court and
3 decide that they don't want a trial and they
4 would rather plea than go to trial. So,
5 sometimes as juries you accomplish a lot even
6 when you don't have to decide.

7 But this has been -- you have been
8 impaneled for two days now and we have got --
9 yesterday we had a number of things we had to
10 deal with, and I apologize for it taking longer
11 than anticipated. But thank you for your
12 service. This will conclude your service for
13 this week.

14 If you need a work excuse or anything for
15 employment purposes, you can see the clerk and
16 she can provide you a letter on that. And,
17 Madam Forelady, I need you to sign the
18 documents, so I'll need to see you after the
19 rest of them leave.

20 So thank you, ladies and gentlemen, you
21 are now dismissed.

22 (The jury exits the courtroom at 5:25
23 p.m.)

24 THE COURT: All right. Do we have a sentencing
25 sheet? Are we preparing one?

JURY RELEASED BY THE COURT

1 (No audible response.)

2 THE COURT: I will fill out the sentencing
3 sheet. Do you have it?

4 MS. BLUNDY: Oh, yes, sir. And disregard my
5 scribbles, because this was supposed to be a plea.

6 (Sentencing sheet sealed by the Court.)

7 (Proceedings concluded.)

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CERTIFICATE PAGE

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2 CERTIFICATE

3

4 STATE OF SOUTH CAROLINA:

5 COUNTY OF OCONEE:

6 I, MONA L. MANLEY, Court Reporter, certify that I
7 was authorized to and did stenographically report the
8 foregoing proceedings and that the transcript is a true
9 and complete record of my stenographic notes.

8

DATED this 16th day of January, 2022.

9

10

11

Mona L. Manley /s/

12

MONA L. MANLEY

13

Official South Carolina Court Reporter

14

Circuit Reporter for the 10th Circuit

15

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1 In the Court of General Sessions for the
2 State of South Carolina, county of Oconee

3

4 Case No.: 2019GS3701238

5 State of South Carolina,

6 Plaintiff(s),

7 vs. Transcript of Record

8 Randy Lee Cantrell,

9 Defendant(s) .

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15 September 23, 2021

16 Walhalla, South Carolina

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21 BEFORE:

22 The Honorable J. Cordell Maddox

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APPEARANCES

REPRESENTING THE STATE:

Bethany Ann Blundy, Assistant Solicitor
Tenth Circuit Solicitor's Office
415 S. Pine Street
Walhalla, South Carolina 29691

REPRESENTING THE DEFENDANT:

Kayla Michelle Porter, Esquire
10th Circuit Public Defender's Office
110 Browns Square Drive
Walhalla, South Carolina 29601

1 PROCEEDINGS

2 THE COURT: Okay. This is the sealed
3 sentence. Okay. This is the State of South
4 Carolina versus Randy Lee Cantrell. All I know is
5 that at some point he -- the trial was complete; is
6 that correct?

7 MS. PORTER: Yes, Your Honor. He was
8 tried in front of Judge Sprouse last month.

9 THE COURT: Then he left for what --
10 why did he leave?

11 MS. PORTER: Your Honor, after jury
12 selection he went to the hospital complaining of
13 chest pain. At that point Judge Sprouse ordered
14 that if he was admitted to the hospital we would
15 figure out what to do with the jury. If he was
16 released from the hospital, that he was to be taken
17 into custody. Mr. Cantrell left the hospital and
18 was later picked up.

19 MS. BLUNDY: He ran from the
20 hospital, Your Honor.

21 THE DEFENDANT: I didn't run.

22 THE COURT: All right. Well, you
23 didn't come back, right?

24 THE DEFENDANT: I walked out the
25 front door. You can see the footage where I walked

1 right out the front door.

2 THE COURT: Yes, but you were
3 supposed to come back to here, you understand that?

4 THE DEFENDANT: I panicked. I
5 panicked and I got scared.

6 THE COURT: Well, you understand that
7 Judge Sprouse -- now, I'm not making -- I mean, all
8 I'm doing is basically, at this point, he sentenced
9 you and I'm opening your sentence. I haven't
10 touched it. It has got his signature on the back.
11 And just for the record, it is signed R. Scott
12 Sprouse, number 27252, sealed sentence 8-24-21.

13 So, what was the charge?

14 MS. PORTER: Possession of meth,
15 third offense. Less than a gram.

16 THE COURT: Okay. It looks like
17 Judge Sprouse sentenced you to ten years in prison
18 and gave you credit for the five days you had
19 served.

20 THE DEFENDANT: That is nonviolent?

21 MS. PORTER: Yes, it is nonviolent.

22 THE COURT: Yep. Okay. So I guess
23 any period of time that you had to make any motions
24 on that starts today.

25 MS. PORTER: Yes, Your Honor. And I

1 have discussed that with my client.

2 THE COURT: Okay. All right. Thank

3 you.

4 MS. BLUNDY: Thank you, Your Honor.

5 (Proceeding adjourned.)

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2 CERTIFICATE

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4 STATE OF SOUTH CAROLINA:

5 COUNTY OF OCONEE:

6 I, MONA L. MANLEY, Court Reporter, certify that
7 I was authorized to and did stenographically report
8 the foregoing proceedings and that the transcript is
9 a true and complete record of my stenographic notes.

8

DATED this 27th day of November, 2021.

9

10

11

Mona L. Manley /s/

12

MONA L. MANLEY

13

South Carolina Court Reporter

14

Circuit Reporter for the 10th Circuit

15

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WITNESSES

261

Walhalla Police Dept.

J Hernandez

[Signature]

ARREST WARRANT NUMBER

2019A3720400064

ACTION OF GRAND JURY

TRUE BILL

[Signature]
Foreperson of Grand Jury

Date:

OCT 14 2019

VERDICT

DOCKET NO. 2019-GS-37-0/238

The State of South Carolina

County of Oconee

COURT OF GENERAL SESSIONS

OCT 14 2019

TERM

THE STATE

VS.

RANDY LEE CANTRELL

INDICTMENT FOR

POSS METH 3RD

SC Code: § 44-53-375(A)

CDR Code: 3016

BAB

Foreperson of Grand Jury

Date:

FILED OCONEE, SC
GEOFFREY H. WHITEHEAD
CLERK OF COURT
2019 OCT 15 A 10:36

STATE OF SOUTH CAROLINA
COUNTY OF OCONEE

INDICTMENT

At a Court of General Sessions, convened on OCT 14 2019, the
Grand Jurors of Oconee County present upon their oath:

POSSESSION OF METHAMPHETAMINE 3RD

The defendant, Randy Lee Cantrell, did on or about April 6, 2019, in Oconee County, South Carolina, knowingly or intentionally possess Methamphetamine, a Schedule II controlled substance as defined in Section 44-53-110. All in violation of 44-53-375(A) 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.



BETHANY BLUNDY
ASSISTANT SOLICITOR

STATE OF SOUTH CAROLINA
COUNTY OF OCONEE
STATE

263
IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2019GS3701238

A/W#: 2019A3720400064
Date of Offense: 04/06/2019
S.C. Code §: 44-53-375(A)
CDR Code #: 3016

VS.
RANDY LEE CANTRELL

AKA: Randy Lee Cantrell, Randy Cantrell
Race: White Sex: M Age: 41
DOB: [REDACTED]
Address: [REDACTED]
City, State, Zip: Walhalla, SC 29691
DL#: [REDACTED] SID# SC01144388

SENTENCE SHEET

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the above indictment comes now the Defendant who was

☒ CONVICTED OF or ☒ PLEADS

TO: Poss Meth/Crack 3rd

In violation of § 44-53-375(A) of the S.C. Code of Laws, bearing CDR Code # 3016

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ § 17-25-45

(CSC w/minor 1st or CSC w/minor 3rd)

The charge is: ☒ As indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (def.'s initials)

The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☒ Recommendation by the State.

ATTEST:

79907
Bethany Blundy, Assistant
Solicitor

SC Bar # Defendant

103255
Attorney for Defendant

SC Bar #

WHEREFORE, the Defendant is committed to the ☒ State Department of Correction ☐ County Detention Center,

for a determinate term of 10 days/months/years Time Served ☐ Youthful Offender Act not to exceed ___ years

and/or to pay a fine of \$___; provided that upon the service of ___ days/months/years/Time Served and or payment

of \$___; plus costs and assessments as applicable*; the balance is suspended with probation for ___

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

The sentence shall run

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on: _____

☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by SCDoc.

5 days/months

☐ To include time spent on monitored house arrest prior to trial and sentencing.

☐ The Defendant Shall be Released from County Detention Center.

Pursuant to 18 U.S.C. § 922 and § 16-25-30 It is unlawful for a person convicted of a violation of § 16-25-20 or § 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ PTUP after _____ months/years

And Other Terms Listed Below:

- ☐ Substance Abuse Counseling ☐ Completion of GED ☐ Random Drug/Alcohol Testing
- ☐ Attend Voc. Rehab. Or Job Corp ☐ No Contact with Victim ☐ Domestic Violence Intervention Program
- ☐ Mental Health Counseling ☐ May serve W/E beginning: _____
- ☐ Sex Offender Registry pursuant to S.C. Code § 23-3-430 ☐ Public Service Employment _____ days/hours
- ☐ Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.
- ☐ Other: _____

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total \$ _____ plus 20% fee: _____ \$ _____

Payment Terms: _____ ☐ Set by SCDPPPS

Recipient: _____

***Fine:**

Fine may be pd. in equal consecutive weekly/monthly pmts. of \$ _____ Beginning _____

§14-1-206 (Assessments 107.5%)	\$100	\$ 100.00
§14-1-211 (A)(1)(Conv. Surcharge)	\$100	\$
§14-1-211 (A)(2)(DUI Surcharge)	\$12	\$
§56-5-2995 (DUI Assessment)	\$25	\$
§56-1-286 (DUI Breath Test)	\$25	\$ 25.00
§14-1-212 (Law Enforce. Funding)	\$150	\$ 150.00
§14-1-213 (Drug Court Surcharge)	\$41	\$
§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)	\$50	\$
§50-21-114 (BUI Breath Test Fee)	\$40/ea	\$
§56-5-2942(J) (Vehicle Assessment)	TBD	\$
3% to County (if paid in installments)		
☐ Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees	\$500	\$
☐ § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund	TBD	\$ 8.25
TOTAL		\$ 283.25

Clerk of Court/Deputy Clerk:
Court Reporter:

Melissa C. Burton
Kenna W. Winters

Presiding Judge:
Judge Code:
Sentence Date:

[Signature]
2752
8-24-21

CERTIFIED TRUE COPY
OCT 18 2021
CLERK OF COURT
OCCONEE COUNTY, SC

ARREST WARRANT

2019A3720400064

STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of
WALHALLA

 THE STATE
against

RANDY LEE CANTRELL

 Address: WALHALLA
 Phone:
 Sex: M Race: W Height: 6-6 Weight: 212
 DL State: DL#:
 DOB: 1979 Agency ORI#:
 Prosecuting Agency: WALHALLA POLICE DEPARTMENT
 Prosecuting Officer: J. HERNANDEZ
 Offense: POSS. OF METHAMPHETAMINE 3RD OR
MORE Offense Code: 3016
 Code/Ordinance Sec. 44-53-0375 (A)

 This warrant is CERTIFIED FOR SERVICE in the
☐ County/ ☐ Municipality of

 The accused
 is to be arrested and brought before me to be
 dealt with according to law.

Signature of Judge

(L.S.)

Date: 04/10/2019

Date

Time

RETURN

 A copy of this arrest warrant was delivered to
 defendant RANDY LEE CANTRELL
 on 4/12/19

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

 WALHALLA MUNICIPAL COURT
 101 E. MAIN STREET
 WALHALLA, S.C. 29691

STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of
WALHALLA

AFFIDAVIT

 Form Approved by
 S.C. Attorney General
 April 27, 2005
 SCCA #18

 Personally appeared before me the affiant J. HERNANDEZ who
 being duly sworn deposes and says that defendant RANDY LEE CANTRELL
 did within this county and state on 04/06/2019 violate the criminal laws of the
 State of South Carolina (or ordinance of ☐ County/ ☒ Municipality of WALHALLA)
 in the following particulars:

DESCRIPTION OF OFFENSE: 44-53-0375 (A) / POSS. OF METHAMPHETAMINE 3RD OR MORE

 I further state that there is probable cause to believe that the defendant named above did commit
 the crime set forth and that probable cause is based on the following facts:

 THE DEFENDANT, ON 04/06/2019 DID KNOWINGLY, INTENTIONALLY AND WITHOUT THE AUTHORITY TO DO SO, POSSESS LESS THAN ONE
 GRAM OF METH. A SCHEDULE II CONTROLLED SUBSTANCE. FURTHER, THE DEFENDANT HAS 3 OR MORE PRIOR CONVICTIONS FOR THE
 POSSESSION OF METH. THIS INCIDENT OCCURED AT WEST MAIN STREET AND SOUTH POPLAR STREET AND WAS INVESTIGATED BY THE
 WALHALLA POLICE DEPARTMENT. A WRITTEN REPORT IS ON FILE.

Signature of Affiant

STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of
WALHALLA

 Affiant's Address 101 E MAIN ST
WALHALLA SC 29691
 Affiant's Telephone (864) 638-5831

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER IN THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

 It appearing from the above affidavit that there are reasonable grounds to believe that
 on 04/06/2019 defendant RANDY LEE CANTRELL

did violate the criminal laws of the State of South Carolina (or ordinance of

☐ County/ ☒ Municipality of WALHALLA) as set forth below:
DESCRIPTION OF OFFENSE: DRUGS / POSSESSION OF LESS THAN ONE GRAM OF METH. OR COCAINE
BASE, 3RD OR SUB. OFFENSE
 Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said
 defendant and bring him or her before me forthwith to be dealt with according to the law. A copy of this Arrest Warrant shall be delivered
 to the defendant at the time of its execution, or as soon thereafter as is practicable.

Sworn to and subscribed before me)

on 04/10/2019

Date

Time

(L.S.)

DANNY SINGLETON

Judge Code: 8306

 Judge's Address 101 EAST MAIN STREET
WALHALLA SC 29691
Judge's Telephone (864) 638-4341Issuing Court: ☐ Magistrate ☒ Municipal ☐ Circuit

Case: 19000158

ORIGINAL

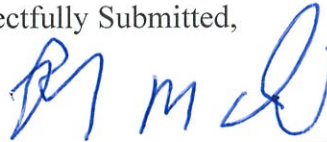
 2019 APR 26 P 4 11
 FILED O'CONNOR, SC
 SEVERLY H. WHITEFIELD
 CLERK OF COURT

 ENTERED
 4/12/19

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

Respectfully Submitted,



Robert M. Dudek
Chief Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589

ATTORNEY FOR APPELLANT

RECEIVED

Dec 29 2022

SC Court of Appeals

This 28th day of December, 2022.

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

RECEIVED
Dec 29 2022
SC Court of Appeals

Appeal from Oconee County

Honorable R. Scott Sprouse, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

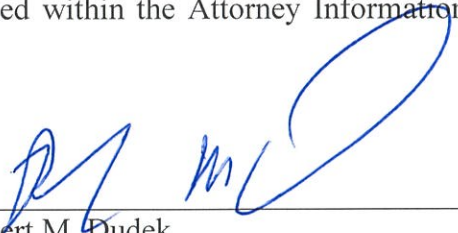
RANDY LEE CANTRELL,

APPELLANT

APPELLATE CASE NO. 2021-001144

CERTIFICATE OF SERVICE

Pursuant to Rule 262(a)(3) and Rule 262(c)(3), SCACR, the undersigned hereby certifies a true copy of the Record on Appeal in the above-referenced case has been served upon Mark Farthing, Esquire, at the primary email address listed within the Attorney Information System (AIS), this 28th day of December, 2022.



Robert M. Dudek
Chief Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S.C. 29211-1589

ATTORNEY FOR APPELLANT