

ORIGINAL

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SC COURT OF APPEALS

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM ANDERSON COUNTY

R. Lawton McIntosh, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

CHRISTOPHER LEE TODD,

APPELLANT

APPELLATE CASE NO. 2013-000118

RECORD ON APPEAL

ROBERT M. PACHAK
Appellate Defender

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

Attorney for Appellant

ALAN WILSON
Attorney General

SALLEY W. ELLIOTT
Senior Assistant Deputy Attorney General
Office of the Attorney General
PO Box 11549
Columbia, SC 29211
(803) 734-3727

Attorneys for Respondent

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VOIR DIRE

Juror#	Name	Race	Sex	Strikes			Accept
				Ct	Pl	Def.	
50	Judy M. Freeman	W	F				X
47	Jim E. Foster	W	M				X
172	Norma F. Thrasher	W	M				X
59	Peggy J. Gatlin	W	F			X	
126	Virginia A. Nunn	W	F				X
149	Raymond R. Schmuck	W	M			X	
189	Amanda A. Westhead	W	F			X	
24	Daniel W. Cameron	W	M				X
85	Johnny R. Jackson	W	M				X
165	Heather L. Sweet	W	F				X
93	Sandra S. Jones	W	F			X	
154	Emily N. Short	W	F				X
44	Jannette P. Elliott	W	F			X	
153	Margaret A. Shore	W	F				X
176	Barbara M. Turner	W	F				X
46	Amber N. Fleming	W	F		X		
18	Sharon D. Buddin	W	F				X
123	Susan M. Mitchell	W	F		X		
177	Sandra R. Turpin	W	F				X
75	Michell L. Hicks	W	F			X	
86	Lyndon B. James	W	M			X	
145	Lillian Rivera	H	F				X

1 January 7, 2013

2 (WHEREUPON, court convened with all parties present
3 and the following proceedings were had commencing at
4 approximately 10:55 a.m.)

5 THE COURT: All right. Is the State ready to
6 proceed?

7 MR. CAMPBELL: Yes, sir, Your Honor.

8 THE COURT: Is the Defense ready to proceed?

9 MR. MCELHANNON: Ready, Your Honor.

10 THE COURT: Would you call your first case,
11 please, sir?

12 MR. CAMPBELL: May it please the Court. Your
13 Honor, the State's ready on indictment number 2012-1859.
14 It's the case of State versus Christopher Lee Todd who's
15 been indicted for possession of methamphetamine with
16 intent to distribute. It's my understanding it's going
17 to be a trial.

18 THE COURT: All right. Ladies and gentlemen,
19 we're about to begin the case of the State versus
20 Christopher Lee Todd who's been indicted for possession
21 of methamphetamine with intent to distribute. Before we
22 get started, let me tell you that the fact that this
23 gentleman has been charged and indicted and arrested is
24 not evidence of his guilt. It does not raise the
25 presumption nor an inference of his guilt. It is simply

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1 the mechanism by which the State of South Carolina brings
2 folks before jurors such as yourself for a determination
3 of their guilt or innocence.

4 With that being said, I remind you that you're still
5 under oath. I'm going to go through a series of
6 questions that, unlike we did earlier where I gave you an
7 opportunity to come forward and speak to me in a more
8 confidential setting, you'll not be allowed to do that at
9 this point. If the matter of the question is one that
10 you need to respond to, would you please stand, give me
11 your jury number, give me the response. And that way we
12 can move forward from there.

13 The first question is has anyone ever been related
14 by blood or marriage to Christopher Lee Todd? If you've
15 ever been related by blood or marriage to Christopher Lee
16 Todd, would you please stand?

17 (No response)

18 THE COURT: Has anyone ever had a close
19 personal or social relationship with Christopher Lee
20 Todd? If so, would you please stand?

21 (No response)

22 THE COURT: Very good.

23 Okay. Ladies and gentlemen, I'm getting ready to
24 read a list of potential witnesses in this case. Listen
25 carefully. If any of you do not get the name being

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1 called out, raise your hand so that you can hear me.

2 It's essential that you do hear all of these names. The
3 following is a list of potential witnesses in this case.

4 Meredith Landreth -- excuse me -- Meredith Lanford. What
5 does A.O.F.L stand for?

6 MR. CAMPBELL: Anderson County Forensic Lab.

7 THE COURT: Anderson County Forensic Lab?

8 MR. CAMPBELL: Anderson Oconee.

9 THE COURT: Meredith Lanford; Francis Moore;
10 Chris Whitfield, Anderson County Sheriff's Office;
11 Michelle Crisp; Daniel Bannister, Anderson County
12 Sheriff's Office; J.T. Foster, Anderson County Sheriff's
13 Office; Sean Proner, Anderson County Sheriff's Office;
14 Belinda Lee, Anderson County Sheriff's Office; Todd
15 Caron, Anderson County Sheriff's Office; Rob Gebing,
16 Anderson County Sheriff's Office.

17 Any additional witnesses potentially from the
18 Defense, Mr. McElhannon?

19 MR. MCELHANNON: No, Your Honor.

20 THE COURT: From the State, Mr. Campbell?

21 MR. CAMPBELL: No, Your Honor.

22 THE COURT: All right. Did everybody get all
23 those names?

24 THE JUROR: I am family friends with J.T.
25 Foster.

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1 THE COURT: I'm sorry?

2 THE JUROR: Family friends with J.T. Foster.

3 THE COURT: Okay. Let me do this. Let me go
4 through these series of questions, and I'm going to get
5 there.

6 THE JUROR: Okay.

7 THE COURT: And I'm going to ask you to stand.

8 Has anyone been related ever by blood or marriage to
9 any of the witnesses that I've just read to you? Or
10 potential witnesses. If you've ever been related by
11 blood or marriage to any of these witnesses, would you
12 please stand?

13 (No response)

14 THE COURT: Has anyone ever had a close
15 personal or social -- oh, excuse me. What is your juror
16 number, please, sir?

17 THE JUROR: Juror number 20, Travis Burris.

18 THE COURT: Okay. And you've been related by
19 blood or marriage to one of those witnesses?

20 THE JUROR: J.T. Foster is married to my niece.

21 THE COURT: He's married to your niece? Is he
22 still married to your niece?

23 THE JUROR: (Nodded head up and down in the
24 affirmative)

25 THE COURT: And do you have a close

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1 relationship with him as a result of that marriage?

2 THE JUROR: Yes, sir.

3 THE COURT: Would the fact that he is married
4 to your niece prevent you from listening to the evidence
5 that's presented in this case and making your decision
6 based on that evidence unaffected by your relationship
7 with this gentleman?

8 THE JUROR: No, sir. I just wanted to make
9 sure you was aware of it.

10 THE COURT: Very good. Thank you, sir.

11 Any additional voir dire from the Defense?

12 MR. MCELHANNON: No, Your Honor.

13 THE COURT: From the State?

14 MR. CAMPBELL: No, Your Honor.

15 THE COURT: All right. I saw a couple of
16 hands. Okay. Would you stand?

17 THE JUROR: I have a -- excuse me. I'm juror
18 number 18, Sharon B. Buddin. Does teaching any of these
19 people count?

20 THE COURT: Well, it depends. You know, like
21 if I was in high school with Mr. Smith back there, it
22 wouldn't count for him, I can tell you.

23 (Laughter)

24 THE JUROR: I taught a Daniel Bannister, but I
25 do not know if it's the same Daniel Bannister.

1 THE COURT: Okay. What we're looking for, for
2 everyone, if you have some type of relationship one way
3 or the other. That's why I'm kind of going through all
4 of these questions. We want to make sure that we pick a
5 jury that's able to listen to the evidence, listen to the
6 lawyers' arguments, listen to the law as I charge it to
7 you at the end of the case and make your decision based
8 on the testimony and evidence presented here in this
9 courtroom unaffected by any relationship or bias you may
10 have for or against one side or the other.

11 That being said, I do appreciate you -- if you feel
12 like you can be fair and impartial to both sides. Do
13 you?

14 THE JUROR: Yes.

15 THE COURT: Okay. Very good. Thank you.

16 Now, going back, has anyone ever had a close
17 personal or social relationship with any of the
18 witnesses? And I had a lady over here. Would you please
19 stand again?

20 THE JUROR: Yes, sir. J.T. Foster, but it does
21 not present a problem.

22 THE COURT: Okay. What is your juror number?

23 THE JUROR: 3.

24 THE COURT: 3? You're Ms. Ashley?

25 THE JUROR: Uh-huh (affirmative).

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1 THE COURT: And that would not affect your
2 ability to be fair and impartial?

3 THE JUROR: (Shook head side to side in the
4 negative)

5 THE COURT: Okay. Thank you, ma'am.

6 Now, for the attorneys, if anyone has any additional
7 voir dire they want me to do, just let me know.

8 Otherwise, I'm going to assume you don't.

9 All right. Mr. McElhannon, would you introduce
10 yourself and your client, please, sir?

11 MR. MCELHANNON: Thank you, Your Honor.

12 I'm Scott McElhannon. I practice law here in
13 Anderson. This is my client, Christopher Lee Todd.

14 THE COURT: Okay. Very good.

15 Mr. Campbell?

16 MR. CAMPBELL: Thank you, Your Honor.

17 My name is Rame Campbell. I'm an assistant
18 solicitor here in Anderson County. I'll be the assistant
19 solicitor trying this case. I work for Solicitor Chrissy
20 Adams seated right here with me.

21 THE COURT: And would you introduce who you
22 have at the table with you?

23 MR. CAMPBELL: Also, my case officer here in
24 the case is Chris Whitfield.

25 THE COURT: Thank you, sir.

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1 Ladies and gentlemen, has any member of the jury
2 panel ever been represented by any of the attorneys here
3 in this courtroom or any members of their firm? If so,
4 would you please stand?

5 (No response)

6 THE COURT: Has any member of the jury panel
7 ever been related by blood or marriage or have you ever
8 had a close personal or social relationship with any of
9 the attorneys in this courtroom or any members of their
10 staffs? If so, would you please stand?

11 THE CLERK: You've got someone standing up.

12 THE COURT: Oh.

13 All right. Sandra, what is your juror number?

14 THE JUROR: 177.

15 THE COURT: Which one is it?

16 THE JUROR: Number 177.

17 THE COURT: 177..

18 THE JUROR: I grew up with Scott McElhannon.

19 THE COURT: You grew up with Scott? Would that
20 affect your ability to listen to the evidence in this
21 case?

22 THE JUROR: No.

23 THE COURT: And you could be fair and impartial
24 to the State and to Mr. McElhannon?

25 THE JUROR: Yes, sir.

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1 THE COURT: Okay. Thank you very much.

2 Anything in addition to that?

3 MR. CAMPBELL: No, Your Honor.

4 THE COURT: Has any member of the jury panel
5 formed or expressed an opinion about any issue or matter
6 involved in the case of the State versus Christopher Lee
7 Todd? If so, would you please stand?

8 (No response)

9 THE COURT: Is there any member of the jury
10 panel that is aware of any bias or prejudice that they
11 may have for the State or against the State or for the
12 Defendant or against this Defendant? If so, would you
13 please stand?

14 (No response)

15 THE COURT: Is there any member of the jury
16 panel that was a member of the Anderson County Grand Jury
17 that issued the indictment in this matter? If so, would
18 you please stand?

19 (No response)

20 THE COURT: Is there any member of the jury
21 panel who is a member of or a contributor to any group
22 which has as its primary concern the promotion of law
23 enforcement or victims' rights? Examples, but certainly
24 not an exclusive list, of these groups, would be MADD,
25 SADD or CAVE. But if you're a member of or a contributor

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1 to any group which has as its primary goal the promotion
2 of law enforcement or victims' rights, would you please
3 stand?

4 (No response)

5 THE COURT: Does any member of the jury panel
6 know of any reason, any reason whatsoever, why he or she
7 should not be selected to serve in the trial of this
8 matter with particular emphasis being placed upon your
9 ability to be fair and impartial to both the State and to
10 the Defense in this matter? If you know of any reason
11 whatsoever why you should not serve, would you please
12 stand?

13 (No response)

14 THE COURT: Any additional voir dire from the
15 Defense?

16 MR. MCELHANNON: None, Your Honor.

17 THE COURT: From the State?

18 MR. CAMPBELL: No, Your Honor.

19 THE COURT: All right. Are you ready to
20 proceed?

21 MR. CAMPBELL: The State's ready.

22 MR. MCELHANNON: The Defense is ready, Your
23 Honor.

24 THE COURT: Everybody agree five and five?

25 MR. CAMPBELL: Yes, sir.

1 MR. MCELHANNON: Yes, sir.

2 THE COURT: Do you think we need an alternate?

3 MR. CAMPBELL: Yes, sir.

4 THE COURT: You do?

5 MR. CAMPBELL: Just one.

6 THE COURT: Okay. So the alternate will be two
7 for the Defense and one for the State on strikes. Okay.

8 Ladies and gentlemen, what we're about to do is call
9 out names from the people who have been qualified, you.
10 If your name is called, I'm going to ask that you come
11 forward, walk through this turnbuckle and stand between
12 our Clerk of Court and my court reporter and face the
13 State and the Defense. And they will make a decision as
14 to whether or not you'll be selected to serve on the
15 trial of this matter. If your name is called, would you
16 bring your personal possessions with you? Just in case
17 you're selected, you don't have to go back to your seat.

18 What is going to happen is our clerk over here is
19 feeding information into the computer. Back when I had
20 brown hair before it turned grey, what we would do to
21 select a jury would be to have somebody who really
22 couldn't read or write who would reach into a spindle and
23 draw names. Now we have a computer that does that for
24 us. They say that's advancement. I think probably it
25 is, but who knows.

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1 But what will happen is that he'll run off a list of
2 names that will be entirely random. And if your name is
3 called, again, just come forward, and we'll go forward
4 from there.

5 THE CLERK: Your Honor, if it pleases the
6 Court, we're ready to proceed.

7 THE COURT: Yes, sir.

8 THE CLERK: Our first potential juror is number
9 50, Judy M. Freeman. Come and stand right here, Ms.
10 Freeman, and turn around and face the audience.

11 What say you for the Defendant?

12 MR. CAMPBELL: The State goes first.

13 THE CLERK: I'm sorry. What say you for the
14 State?

15 MR. CAMPBELL: Present Ms. Freeman.

16 THE CLERK: What say you for the Defendant?

17 MR. MCELHANNON: Please seat Ms. Freeman.

18 THE CLERK: Okay. If you'll have a seat right
19 over here.

20 Next is number 47, Jim E. Foster. Right here and
21 turn and face the audience, please, sir.

22 What say you for the State?

23 MR. CAMPBELL: Present Mr. Foster.

24 THE CLERK: What say you for the Defense?

25 MR. MCELHANNON: Please seat Mr. Foster.

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1 THE CLERK: That way, Mr. Foster.

2 Next is number 172, Norma F. Thrasher. What say you
3 for the State?

4 MR. CAMPBELL: Please present Ms. Thrasher.

5 THE CLERK: Wait, wait, wait.

6 What say you for the Defense?

7 MR. MCELHANNON: Please seat Ms. Thrasher.

8 THE CLERK: Now you can go.

9 Next is number 59, Peggy J. Gatlin.

10 What say you for the State?

11 MR. CAMPBELL: Present Ms. Gatlin.

12 THE CLERK: What say you for the Defense?

13 MR. MCELHANNON: Please excuse Ms. Gatlin.

14 THE CLERK: Have a seat, Ms. Gatlin.

15 Juror number 126, Virginia A. Nunn.

16 What say you for the State?

17 MR. CAMPBELL: Present Ms. Nunn.

18 THE CLERK: What say you for the Defense?

19 MR. MCELHANNON: Please seat Ms. Nunn.

20 THE CLERK: Juror 149, Raymond R. Schmuck.

21 Please stand right here and face the audience.

22 What say you for the State?

23 MR. CAMPBELL: Present Mr. Schmuck.

24 THE CLERK: What say you for the Defense?

25 MR. MCELHANNON: Please excuse Mr. Schmuck.

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1 THE CLERK: Have a seat back in the audience,
2 please, sir.

3 Juror 189, Amanda A. Westhead.

4 What say you for the State?

5 MR. CAMPBELL: Present Ms. Westhead.

6 THE CLERK: What say you for the Defense?

7 MR. MCELHANNON: Please seat Ms. Westhead.

8 THE CLERK: Juror number 24, Daniel W. Cameron.

9 What say you for the State?

10 MR. CAMPBELL: Present Mr. Cameron.

11 THE CLERK: What say you for the Defense?

12 MR. MCELHANNON: Please excuse Mr. Cameron.

13 THE CLERK: Have a seat back in the audience,
14 please, sir.

15 Juror number 85, Johnny R. Jackson.

16 MR. CAMPBELL: What number was that?

17 THE CLERK: 85.

18 Turn and face the audience.

19 What say you for the State?

20 MR. CAMPBELL: Present Mr. Jackson.

21 THE CLERK: What say you for the Defense?

22 MR. MCELHANNON: Please swear the juror.

23 THE CLERK: Have a seat, Mr. Jackson.

24 Number 165, Heather L. Sweet.

25 What say you for the State?

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1 MR. CAMPBELL: Present Ms. Sweet.

2 THE CLERK: What say you for the Defense?

3 MR. MCELHANNON: Please swear Ms. Sweet.

4 THE CLERK: That way, please, ma'am.

5 Juror number 93, Sandra S. Jones.

6 What say you for the State?

7 MR. CAMPBELL: Present Ms. Jones.

8 THE CLERK: What say you for the Defense?

9 MR. MCELHANNON: Please excuse Ms. Jones.

10 THE CLERK: Have a seat back in the audience,
11 please, ma'am.

12 Juror 154, Emily N. Short.

13 What say you for the State?

14 MR. CAMPBELL: Present Ms. Short.

15 THE CLERK: What say you for the Defense?

16 MR. MCELHANNON: Please swear Ms. Short.

17 THE CLERK: That way, please, ma'am.

18 Juror number 44, Jannette P. Elliott.

19 What say you for the State?

20 MR. CAMPBELL: Present Ms. Elliott.

21 THE CLERK: What say you for the Defense?

22 MR. MCELHANNON: Please excuse Ms. Elliott.

23 THE CLERK: Have a seat back in the audience,
24 please, ma'am.

25 Your Honor, I have that as five strikes for the

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1 Defense.

2 Juror 153, Margaret A. Shore.

3 What say you for the State?

4 MR. CAMPBELL: Present Ms. Shore.

5 THE CLERK: Ms. Shore, take a seat over here.

6 Juror 176, Barbara M. Turner.

7 What say you for the State?

8 MR. CAMPBELL: Present Ms. Turner.

9 THE CLERK: Have a seat over here in the jury

10 box, please, ma'am.

11 Juror 46, Amber N. Fleming.

12 What say you for the State?

13 MR. CAMPBELL: Please excuse Ms. Fleming.

14 THE CLERK: Juror number 18, Sharon B. Buddin.

15 What say you for the State?

16 MR. CAMPBELL: Please swear Ms. Buddin.

17 THE CLERK: That way, Ms. Buddin, please.

18 Juror 123, Susan M. Mitchell.

19 What say you for the State?

20 MR. CAMPBELL: Please excuse Ms. Mitchell.

21 THE CLERK: Juror 177, Sandra R. Turpin.

22 MR. CAMPBELL: Is it 77 or 177?

23 THE CLERK: 177.

24 Right here, please, ma'am.

25 What say you for the State?

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1 MR. CAMPBELL: Present Ms. Turpin.

2 THE CLERK: That way, please, ma'am.

3 Your Honor, I have that as twelve. Now we go to the
4 one alternate.

5 THE COURT: Right. Two for the Defense, one
6 for the State.

7 THE CLERK: Juror 75, Michelle L. Hicks.

8 What say you for the State?

9 MR. CAMPBELL: Present Ms. Hicks.

10 THE CLERK: What say you for the Defense?

11 MR. MCELHANNON: Please excuse Ms. Hicks.

12 THE CLERK: Have a seat back in the audience,
13 please, ma'am.

14 Juror 86, Lyndon B. James. Right here, Mr. James,
15 please, sir.

16 What say you for the State?

17 MR. CAMPBELL: Present Mr. James.

18 THE CLERK: What say you for the Defense?

19 MR. MCELHANNON: Please excuse Mr. James.

20 THE CLERK: Juror 145, Lillian Rivera. Right
21 here, please, ma'am. Turn and face the attorneys.

22 What say you for the State?

23 MR. CAMPBELL: Present Ms. Rivera.

24 THE CLERK: Have a seat in the jury box,
25 please, ma'am.

1 Your Honor, I have twelve jurors with one alternate.

2 THE COURT: Thank you very much.

3 Ladies and gentlemen who were selected to serve on
4 this jury, before we get started, I'm going to ask that
5 you go back to your jury room and that you select a
6 foreperson who will basically be the person who
7 communicates with the Court anytime there needs to be
8 communications and also who presides over deliberations.
9 It doesn't have to be unanimous. It just can be by a
10 simple majority. The only prohibition is, Ms. Rivera,
11 you may not serve as the foreperson since you are the
12 alternate in this case. The alternate will fill in in
13 the case if somebody becomes unable to continue to serve.
14 But you have a right to vote on who you would like to be
15 the foreperson.

16 Once you have determined who the foreperson is, if
17 you'd write your name down on a piece of paper and your
18 jury number, give it to Buck here, and I will receive it
19 here in the courtroom and will give you further
20 instructions. But if you'll go back to your jury room at
21 this time, please.

22 (WHEREUPON, the jury exited the open court at
23 approximately 11:20 a.m.)

24 THE COURT: All right. I can look on the faces
25 of all of you out there and see the chagrin of not being

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1 selected to serve on this jury. You're not out of the
2 woods yet, okay? We may and probably will have another
3 case to try before the end of this week. We have a jury
4 call-in system. There is a number on ...

5 Or do you have it on a separate sheet?

6 THE CLERK: I've got it.

7 THE COURT: He's got it on a separate sheet.

8 And he will hand out -- the Clerk will hand out a sheet
9 of paper that has a 2-6-0 number. If you would call that
10 ...

11 Madam Solicitor, what do you think? Tomorrow
12 afternoon about six o'clock?

13 MS. ADAMS: That will be good, Judge.

14 THE COURT: Will that work for you?

15 MS. ADAMS: Yes, sir.

16 THE COURT: Okay. If you would call in after
17 six o'clock tomorrow, we'll give you a notice on there as
18 to whether or not and when you are to report back. So
19 don't call before then because the message will not be on
20 the recorder. If you call in after six o'clock tomorrow,
21 January the 7th, on Tuesday, and we'll let you know
22 whether or not we need you to return.

23 That being said, I'm going to excuse you for the
24 remainder of the day. Thank you for coming, and we
25 appreciate you doing your civic duty. Thank you.

1 (WHEREUPON, the jury panel exited the open court at
2 approximately 11:20 a.m.)

3 THE COURT: Have all of the potential jurors
4 left the courtroom?

5 THE BAILIFF: Yes, sir.

6 THE COURT: Very good.

7 Mr. Campbell, have you seen this motion in limine?

8 MR. CAMPBELL: Yes, Your Honor.

9 THE COURT: Okay. I'll be glad to hear from
10 you with regard to that.

11 MR. CAMPBELL: I have no problem. I was going
12 to instruct my officers -- we've already gone into it --
13 about not going into any of his prior convictions or
14 prior knowledge of him, that it was just a traffic stop,
15 he was the driver of the vehicle, and go from there. I
16 don't have any other -- let's see. Yeah. I do not have
17 any other tapes. Mr. McElhannon and I have been going
18 back and forth on all these audiotapes of the jailhouse
19 recordings. And he has what I have. And I'm not
20 introducing anything other -- and in fact, once we break,
21 I will tell him specifically which -- it's only just a
22 couple.

23 THE COURT: Is that satisfactory to the
24 Defense?

25 MR. MCELHANNON: That is, Your Honor.

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1 THE COURT: Okay. So as far as scheduling,
2 when do y'all want to start back? One-thirty, two?
3 Either way's fine with me.

4 MR. CAMPBELL: I'm ready to go whenever you
5 are, Your Honor.

6 MR. MCELHANNON: One-thirty's fine with me,
7 Your Honor.

8 THE COURT: Let's do that. That way we'll get
9 a little more time. Is that what ---

10 MS. ADAMS: Yes, sir, Judge. We do have that
11 one ...

12 THE COURT: Plea?

13 MS. ADAMS: ... to take care of just before
14 lunch, if we can.

15 THE COURT: All right. Yeah, we can do that.

16 MS. ADAMS: Kristin's on her way up.

17 THE COURT: Okay. If you would, is there
18 anything further from the State before we get started?

19 MR. CAMPBELL: The State's ready, Your Honor.

20 THE COURT: From the Defense?

21 MR. MCELHANNON: No, Your Honor.

22 THE COURT: Okay. Let me just say this to Mr.
23 Todd. We're getting ready to have a lunch break, and
24 then your trial will start at one-thirty. And I say this
25 to all defendants, so do not take offense. But if you

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1 choose not to return -- which I hope you don't. But if
2 you do --- he's already incarcerated?

3 MR. MCELHANNON: Yes, sir.

4 THE COURT: Oh, he is?

5 MR. MCELHANNON: Yes, sir.

6 THE COURT: Then you'll choose to return, won't
7 you? Never mind. And I apologize.

8 All right. And if y'all would, if y'all can step
9 back and let me do a guilty plea, then we'll go forward
10 and we'll start at one-thirty. We'll be in recess --
11 well, we've got to let the jury come back in. It's the
12 first of year, and I haven't been doing this for a couple
13 of weeks.

14 MR. CAMPBELL: A little rusty?

15 THE COURT: Yeah. All right.

16 (Off record discussion)

17 THE COURT: Okay. Would you bring the jury in,
18 please?

19 (WHEREUPON, the jury entered the open court at
20 approximately 11:36 a.m.)

21 THE COURT: All right. Now, who is our
22 foreperson? Okay. I'm going to ask that you and Sandra
23 swap places, please. And if you would, Ms. Forelady and
24 the alternate, if y'all would remain in those two seats
25 each time we come in and out of the courtroom, it just

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1 helps me keep up with some administrative matters. The
2 rest of you can sit wherever you'd like as far as in the
3 jury box. It's nothing that needs to be assigned.

4 (WHEREUPON, Court's Exhibit Number 1 was marked for
5 identification only.)

6 What I'm going to do is excuse you for a lunch
7 break. We're going to bring you back here at one-thirty,
8 and we'll begin the trial of this matter.

9 Let me remind you that you're not to speak with each
10 other about this case. You're not to speak with anyone
11 else about this case. I know that you know relatively
12 little or nothing at this point to speak about. But if
13 somebody comes up to you and they try to talk to you
14 about this matter, tell them that you are a juror and
15 that you cannot speak with them. If they persist, find
16 out who they are or give us a description and we'll
17 handle that.

18 With that being said, I'm going to excuse you and
19 ask you to be back in your jury room at one twenty-five,
20 and we'll start promptly at one-thirty. Thank you very
21 much.

22 Madam Forelady, would you check with your jurors to
23 see who needs pad and pen if they'd like to -- would
24 anybody like to have that, please, ma'am?

25 (WHEREUPON, the jury exited the open court at

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1 approximately 11:37 a.m.)

2 THE COURT: All right. Any additions or
3 exceptions from the State?

4 MR. CAMPBELL: No, Your Honor.

5 THE COURT: From Defense?

6 MR. MCELHANNON: No, Your Honor.

7 THE COURT: Okay. We'll be in recess until
8 one-thirty in this matter. Thank you, guys.

9 (WHEREUPON, court stood at recess for a lunch
10 break.)

11 THE COURT: Before we bring the jury in, I just
12 want to put a couple of matters on the record. It's my
13 understanding in meeting with the State and the Defense
14 attorneys there's been some negotiation as to whether or
15 not Mr. Todd was going to plead. My understanding is
16 that he wants to exercise his constitutional right to
17 have a jury trial, which is certainly his right. And
18 that's what we're going to do. But I wanted to make sure
19 it's clear on the record that prior to today, which is
20 Monday, the 7th of January, he had been offered
21 possession with intent to distribute methamphetamines
22 second offense, if I'm not mistaken.

23 Is that correct, Counsel?

24 MR. MCELHANNON: That's correct, Your Honor.

25 THE COURT: With a ten-year recommendation from

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1 the State?

2 MR. MCELHANNON: That's correct, Your Honor.

3 THE COURT: And that was rejected.

4 MR. MCELHANNON: Yes, sir.

5 THE COURT: Now, in meeting with the State and
6 meeting with Defense counsel and without making my hands
7 tied to it, I told, you know, Mr. McElhannon and Mr.
8 Campbell that, you know, I would give him a fairly high
9 sentence but suspend it down to a twelve- to fifteen-year
10 range based on it being a third because that's -- the
11 second's off the table now.

12 MR. MCELHANNON: That's correct.

13 THE COURT: And my understanding is that Mr.
14 Todd does not wish to accept that and wants to go forward
15 with his plea -- I mean, go forward with the trial. Is
16 that correct, Mr. McElhannon?

17 (WHEREUPON Mr. McElhannon conferred off the record
18 with the Defendant.)

19 THE DEFENDANT: May I say something, Your
20 Honor?

21 THE COURT: Yes, sir.

22 THE DEFENDANT: I feel like he ain't
23 representing me to the best of his ability because the
24 first plea that I was offered, he never came at me and
25 told me that this is the final offer or anything like

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1 that. He just said they coming at you with ten years,
2 and that's it.

3 THE COURT: Well, let me tell you something.

4 THE DEFENDANT: If I would have knew that ---

5 THE COURT: Mr. Todd, let me tell you
6 something.

7 THE DEFENDANT: Yes, sir.

8 THE COURT: This case is going forward today.
9 We've got a jury.

10 THE DEFENDANT: I understand.

11 THE COURT: That late statement by you means
12 nothing to me. It's just a ploy on your part to keep
13 from going forward to trial, and that's not going to
14 happen. So either ---

15 THE DEFENDANT: I understand.

16 THE COURT: -- you will exercise your
17 Constitutional right to have a jury trial, which we'll
18 do, or you will do a plea. And it doesn't matter to me.

19 THE DEFENDANT: I understand.

20 THE COURT: Okay? I'm going to be here either
21 way. I'm not going to hear anything else from you, okay?

22 THE DEFENDANT: I understand.

23 THE COURT: Okay. Now, if you want to go
24 forward with your plea, then I'll be glad to let you do
25 that. On the other hand, we're not going to sit here and

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1 delay this case anymore. Do you understand?

2 THE DEFENDANT: I understand, sir. I just felt
3 like ---

4 THE COURT: I don't want to hear any more from
5 you, Mr. Todd. Do you understand that too?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: Do you feel like you need a few
8 minutes to talk to Mr. McElhannon?

9 THE DEFENDANT: I done talked to him. I don't
10 really know what else to say to him, sir.

11 THE COURT: Okay. Now, I assume at this point
12 you're going to go forward with your trial; is that
13 correct?

14 THE DEFENDANT: I was trying to get new
15 counsel, sir. This is the first time I've been in court.

16 THE COURT: You're not going to get new
17 counsel. That will not happen. Okay? Now, the
18 question, again, do you want to go forward with the plea,
19 or do you want to go forward with your trial?

20 THE DEFENDANT: I guess I'm going to plea, sir.

21 THE COURT: Okay. I'm going to ask that you
22 spend a few minutes and speak with Mr. McElhannon in the
23 grand jury box over there. Y'all speak. And he said he
24 wanted to go forward with the plea; is that correct?

25 MR. MCELHANNON: That's what he said, Your

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1 Honor.

2 THE COURT: How about go step over there and
3 speak with him and make sure y'all have -- you answer any
4 of his questions. We'll be in recess for about ten
5 minutes.

6 MR. MCELHANNON: Yes, sir.

7 (WHEREUPON, court stood at recess for a short
8 break.)

9 THE COURT: Mr. McElhannon, have you had an
10 opportunity to speak with Mr. Todd?

11 MR. MCELHANNON: I have, Your Honor.

12 THE COURT: And has he advised you of how he
13 wishes to proceed?

14 MR. MCELHANNON: He wishes to go to trial, Your
15 Honor.

16 THE COURT: He wishes to go to trial?

17 MR. MCELHANNON: Yes, sir.

18 THE COURT: Very good.

19 All right. Would you bring the jury in -- well, he
20 stepped around. Would you bring the jury in, please,
21 sir?

22 (WHEREUPON, the jury entered the open court at
23 approximately 1:47 p.m.)

24 THE COURT: Good afternoon, ladies and
25 gentlemen. Regardless, of what you may think, we have

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1 actually been in here doing some work. We haven't just
2 left you in the back room doing nothing.

3 We're about to begin the trial of the case of the
4 State versus Christopher Lee Todd who has been charged
5 with possession of methamphetamine with intent to
6 distribute. Again, ladies and gentlemen, the fact that
7 this gentleman has been charged, indicted and arrested is
8 not evidence of his guilt. It doesn't raise any
9 presumption nor even an inference of his guilt. This is
10 simply the charging mechanism by which the State brings
11 defendants before a jury such as yourselves for a
12 determination of guilt or innocence.

13 With that being said, would you swear the jury,
14 please, sir?

15 THE CLERK: I will be glad to.

16 If I could have you stand and raise your right
17 hands, please.

18 (WHEREUPON, the jury was duly sworn.)

19 THE COURT: And I understand that there was a
20 request for all thirteen jurors to have a pad and pencil.
21 Is that correct, Madam Forelady?

22 MADAM FORELADY: Yes.

23 THE COURT: Very good.

24 PRELIMINARY CHARGE

25 BY THE COURT:

1 All right. Ladies and gentlemen, just before we get
2 started, let me go over a few things for you as jurors
3 for you to think about. I don't know whether any of you
4 have been involved in the court system before, either as
5 observers, jurors, litigants or some other aspect. I
6 would expect, however, that each and every one of you
7 have watched which purports to be a trial on T.V. or in
8 the movies. Let me quickly dispel you right now that
9 what you're about to engage is not anything like you've
10 seen on T.V. or the movies. This is not entertainment.
11 Trials are slow, they're methodical and they're
12 deliberate. They are a search for the truth and to make
13 sure that justice is done from the evidence that's
14 presented here in this courtroom.

15 Now, these attorneys for the State and for the
16 Defendant are advocates for their clients. They have an
17 ethical duty to zealously represent their clients in the
18 matter and their position in this case. With that being
19 said, they're also officers of this court. What that
20 means is that you can expect them to be courteous,
21 competent and ethical towards one another, towards the
22 Court and towards any witness who appears before this
23 Court.

24 Now, you have just taken an oath to be fair and
25 impartial and to make your decision based solely on the

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1 evidence, uninfluenced by any bias or prejudice you may
2 have for one side or the other. So what that means is in
3 your dealings in this case that these attorneys, these
4 parties and this Court have a right to expect of you that
5 you will be fair and that you'll be ethical and unbiased
6 in your dealings in this matter.

7 Now, what I'm about to tell you is not the law that
8 you apply in this case. At the end of this case, I will
9 charge you on the law that you will apply to the facts as
10 you find them to be in making your decision.

11 Now, a few notes -- a few words of warning about the
12 note-taking. I used not to let jurors take notes. I
13 have found over time that it's better for them to take
14 notes because everybody wants to. But don't get so
15 involved in your note-taking that you overlook somebody's
16 reaction on the stand. It is important in making a
17 decision as to how you're going to find facts. You have
18 to judge people's credibility. And so if you're so
19 engrossed in taking notes that you are unable to see
20 somebody's reaction to a question, their visceral
21 reaction may be something different than what they say.
22 So you need to be able to watch them do that.

23 Also, just because somebody's notes may say
24 something and somebody's memory is different from the
25 notes, that doesn't mean that the notes control. That's

1 what deliberations are about.

2 Okay. That being said, to the charge of possession
3 of methamphetamine with intent to distribute, this
4 Defendant has said, I am not guilty. What that simply
5 means is that the burden is upon the State of South
6 Carolina to prove each and every element of the charge
7 against him beyond a reasonable doubt. And it'll be
8 their burden at all times to prove his guilt beyond a
9 reasonable doubt. And it'll be your job at the end of
10 this case when I tell you to begin your deliberations to
11 decide whether or not the State has met its burden.

12 Let me give you a quick idea of what a reasonable
13 doubt is. A reasonable doubt is the kind of doubt that
14 would cause a person to hesitate to act in an important
15 matter in their own affairs. The State has the burden of
16 proving the Defendant guilty beyond a reasonable doubt.

17 Now, some of you may have served as jurors in a
18 civil case where the burden of proof is by a
19 preponderance of the evidence. We always illustrate that
20 by showing scales. And if they tilt ever so slightly,
21 that would be a preponderance.

22 The burden of proof in a criminal case is beyond a
23 reasonable doubt which is much higher, and the proof has
24 to be much more powerful than in a civil case. Proof
25 beyond a reasonable doubt is proof that leaves you firmly

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1 convinced of the Defendant's guilt.

2 Now, with that being said, there are very few things
3 in life that we know with absolute certainty. And the
4 State is not required to overcome every possible doubt in
5 order to prove their case. If, based on all the
6 consideration of all of the evidence, you're firmly
7 convinced that the Defendant is guilty of the crime for
8 which he has been charged, then it will be your duty to
9 find him guilty. On the other hand, if you think there
10 is a real possibility that the Defendant did not commit
11 the -- is not guilty or if there is some kind of doubt
12 that may arise in your minds, then it will be your
13 corresponding duty to find him not guilty.

14 Now, your job as jurors is to find facts. In the
15 vernacular of the law, what we say is that you are the
16 judges of the facts. Therefore, if at any time I do
17 anything that seems to indicate to you how you're
18 supposed to decide this case -- in other words, what
19 facts you're supposed to find -- I'm going to ask you to
20 disregard that. I can tell you I have no feeling which
21 way or the other how you're supposed to find the facts in
22 this case. I view my job as being someone who teaches
23 you on the law and who presides over the process to make
24 sure that both sides in this case get a fair and unbiased
25 trial and that justice is done.

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1 Now, you determine what the facts are in this case
2 from the testimony and the evidence that you hear in this
3 courtroom. Now, you're not to be influenced by anything
4 you hear outside of this courtroom. And it would be
5 improper for you to even bring that into your
6 deliberations.

7 Now, the facts as you find them to be and the
8 inferences that you draw from those facts are simply up
9 to you. Nobody can invade that province.

10 I will tell you one thing though. This case is not
11 going to be very long, and it will be vital for each and
12 every one of you to pay close attention throughout the
13 course of this case. If I make a mistake, I generally
14 make a mistake in law. And it is correctable down in
15 Columbia by one of the appellate courts. On the other
16 hand, if there is a mistake in facts, as a general rule,
17 that is not correctable on appeal.

18 Now, with that being said, the law that makes you
19 the finders of the facts makes me the judge of the law.
20 Now, you may not like the law as I give it to you. You
21 may think it should be something other than it is. It
22 would be improper for you to engage in any kind of
23 activity along those lines. Your job as jurors is to
24 find facts as you find them to be, but you must apply the
25 law as I give it to you. You are not allowed to change

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1 it.

2 Now, I kind of hinted at this at lunchtime. Until I
3 tell you at the end of this case, you are free to begin
4 your deliberations, you may not talk amongst yourselves
5 about this case and you may not talk with anyone else.
6 I'm married and I have a child, and I know if I was
7 selected on a jury they'd be asking me what happened,
8 what's going on. After this case is over with, there
9 will be plenty of time to talk with them about it. So
10 while this is going on, do not speak with spouses,
11 friends or anyone else. And do not speak with them over
12 the cell phone, Internet, whatever mechanical device you
13 can think of, Twitter, whatever it is out there, just
14 don't do it.

15 Also, our Chief Justice of the South Carolina
16 Supreme Court, Jean Toal, has instructed all trial judges
17 to instruct jurors that they're not allowed to engage in
18 independent jury research. What that simply means is if
19 you see somebody that you want to look up or hear an
20 issue that you want to look up or you think there's an
21 issue that may help you understand the case more, that
22 you go engage in some type of research about that issue.
23 You're instructed you can't do that.

24 And the reason why we don't want you talking amongst
25 yourselves or anybody else or doing any independent

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1 research is, number one, we want you to make your
2 decision based on what you hear here in this courtroom.
3 And number two, we don't want you to have some kind of
4 outside influence that the State or the Defense is not
5 aware of and they don't have a right to cross-examine or
6 examine somebody about it. And we don't want you to come
7 to a conclusion about what the facts are until you've
8 heard all the evidence in this case and until the law is
9 charged to you.

10 Now, in each and every case in South Carolina, there
11 are five phases. In just a minute we'll have the opening
12 statements. Then you'll go to the presentation of the
13 evidence. You'll have closing statements. I will then
14 charge you on the law and then you'll begin your
15 deliberations. Those are the five phases. And I tell
16 you that so you'll know generally where you are
17 throughout the course of this case.

18 Now, the Solicitor in just a second is going to make
19 an opening statement. He will tell you what he contends
20 this case is about. Now, what he said and what the
21 Defense may say is designed to help you. But let me
22 remind you, it is not sworn testimony. What these
23 gentlemen say to you is designed to help you understand
24 it, but it is not from the witness stand, and it's not
25 under oath. Okay?

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1 Now, likewise, Mr. McElhannon may stand up and give
2 you what he thinks the case is about. The same rules
3 apply to him. It's not sworn testimony. It is helpful.
4 But he's not required to do anything. Again, the burden
5 remains on the State of South Carolina to prove its case
6 beyond a reasonable doubt.

7 In every single case I've ever been in, either as a
8 lawyer or as a judge, there will be objections. It may
9 -- you may feel at times that you're like cattle getting
10 shifted in and out of the courtroom. Let me tell you, it
11 is an attorney's ethical duty to object anytime he or she
12 feels like there's something going on in the courtroom
13 that is improper.

14 Now, the fact that an attorney objects to something
15 in the courtroom is not something you may discuss in your
16 chambers at any time either while this trial is going on
17 or in your deliberations. To the extent I let you stay
18 here in the courtroom while I rule on the objection, you
19 may not discuss that either. Just understand that's just
20 part of the process that we go through in each and every
21 trial in this state.

22 Now, before we get started, I'm going to ask you to
23 go back to your jury room for one second. I'm going to
24 ask these attorneys whether or not I've neglected to say
25 something I should have or said something that I

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1 shouldn't have.

2 Madam Forelady, if you need anything, please let
3 Buck know. We'll make sure you get it. If I ever ask
4 you to come back before everybody's ready, just send word
5 that you're not quite ready, and then we'll wait until
6 you are. Okay? Thank you very much.

7 (WHEREUPON, the jury exited the open court at
8 approximately 2:02 p.m.)

9 THE COURT: Any additions or exceptions from
10 the State?

11 MR. CAMPBELL: No, Your Honor.

12 THE COURT: From the Defense?

13 MR. CAMPBELL: No, Your Honor.

14 THE COURT: All right. Y'all want to take a
15 quick break before you go into opening statements?

16 MR. CAMPBELL: Yes, sir. And I think we'll get
17 together about marking evidence ahead of time.

18 THE COURT: Okay. Well, how long do you think
19 y'all need?

20 MR. CAMPBELL: Five or ten minutes.

21 THE COURT: We'll be in recess for five
22 minutes. How about that?

23 MR. CAMPBELL: All right.

24 (WHEREUPON, court stood at recess for a short break
25 during which State's Exhibits Number 1 through 11

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1 were marked for identification only.)

2 THE COURT: All right. Is the State ready to
3 proceed?

4 MR. CAMPBELL: Yes, Your Honor.

5 THE COURT: Is the Defense ready to proceed?

6 MR. MCELHANNON: Yes, Your Honor.

7 THE COURT: Very good.

8 Would you bring the jury in?

9 (PHONE INTERRUPTION)

10 Who's got a phone? Cut it off. Is that Mr. Wilson?

11 (WHEREUPON, the jury entered the open court at
12 approximately 2:12 p.m.)

13 THE COURT: Are we missing somebody? No, no,
14 excuse me. I counted wrong. I was never good in math.
15 Okay.

16 All right. Mr. Campbell, is the State ready to
17 proceed?

18 MR. CAMPBELL: The State's ready, Your Honor.

19 THE COURT: Mr. McElhannon, is the Defense
20 ready to proceed?

21 MR. MCELHANNON: Ready, Your Honor.

22 THE COURT: All right. Mr. Campbell.

23 MR. CAMPBELL: May it please the Court.

24 THE COURT: Yes, sir.

25 OPENING STATEMENT

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1 BY MR. CAMPBELL:

2 Ladies and gentlemen of the jury, it has been said
3 that the truth is the mightiest of them all. And what
4 that comes out to and what this implies directly to you
5 is you must decide what the truth is in this case.

6 Mr. Todd's been charged with possession with intent
7 to distribute methamphetamines. It is the burden upon
8 the State, as the Judge told you, to prove our case to
9 you. We give you the facts. And from the facts, y'all
10 decide what is truth or not. Your job is to determine
11 guilt or innocence.

12 And basically the charge that we have, possession
13 with intent to distribute methamphetamines, we've got to
14 show, one, that it's methamphetamines. We'll have a
15 chemist here to tell you that. We've also got to show
16 you that the person possessed it.

17 And you're going to hear some legal terms, actual
18 and constructive possession. Actual means it's like in
19 your pocket, on you. Constructive means you had dominion
20 and control over, in this case, a car in which the
21 narcotics is found.

22 We also, as the State, have to prove to you to prove
23 this charge that there was more than one gram, which a
24 chemist will be here to tell you that. And at the end of
25 this case you will decide what the truth is. And to get

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Opening Statement by Mr. Campbell

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1 to that point, we're going to give you officers. We're
2 going to put up witnesses who will help you -- give you
3 the facts -- as the Judge says, you must decide the facts
4 -- and help you to determine which way you need to
5 decide.

6 Now, the facts in this case are this, that on May
7 10th, 2012, Chris Whitfield, who at the time was a deputy
8 with the Anderson County Sheriff's Office, was on patrol
9 when he saw a car come by him. And he made a turn
10 following that car, just driving down the road. He
11 noticed the car went down, crossed the center line and
12 kind of put the car right dead center of the center line.
13 So he figured it's a traffic violation, I'd better pull
14 him over.

15 When he pulled the car over, he approached the car.
16 And Mr. Todd was the driver. There was two other people
17 in the car, but he was the driver of the car. And he
18 acknowledged to the officer that, hey, I shouldn't be
19 driving.

20 They got him out of the car. He was placed under
21 arrest for driving under suspension, as Mr. Todd had
22 alluded to, and did a search of the vehicle. And in this
23 vehicle a Pringles can was found. Inside that can, which
24 you will see, there was a set of digital scales, baggies
25 and some methamphetamine.

1 At that point, all the other passengers in the car
2 were taken out. They were asked who was owner, who owned
3 the drugs. Nobody claimed them. But Mr. Todd kept
4 trying to force it upon one of the passengers. As a
5 direct result, all three were charged. And we're here
6 today to try Mr. Todd.

7 Now, you will hear the facts. You will decide what
8 is truth or not. And what the truth comes from will be
9 that stand. Not what I say, not what Mr. McElhannon says
10 because we -- as the Judge alluded to, we are advocates
11 for our side. We have a certain position we're going to
12 take. But it's for you to determine. And we must prove
13 this case to you beyond a reasonable doubt.

14 Now, as the Judge said, it's a doubt that would
15 cause a reasonable person to hesitate to act. The way I
16 look at it is this. If you think he did it, find him
17 guilty. If you think he didn't do it, find him not
18 guilty. That's what your job is.

19 And when it comes down to it, after you hear our
20 case, when we put it up -- it's not going to be too
21 terribly long of a case. But you will hear the officers.
22 You'll hear their point of view, what they saw, what they
23 observed. And you take that and you combine it with the
24 physical evidence that you see, and then you come to a
25 decision.

Opening Statement by Mr. McElhannon

1 At the end of this trial, we feel we will have given
2 you enough to render a verdict that speaks the truth and
3 justice demands. And I thank you for your time and
4 attention.

5 THE COURT: Mr. McElhannon, do you care to have
6 an opening statement?

7 MR. MCELHANNON: Briefly, Your Honor.

8 THE COURT: Yes, sir.

9 MR. MCELHANNON: May it please the Court.
10 Mr. Campbell.

11 THE COURT: Yes, sir.

12 OPENING STATEMENT

13 BY MR. MCELHANNON:

14 Ladies and gentlemen, again, I'm Scott McElhannon.
15 I practice law here in Anderson. I'm representing the
16 Defendant today, Christopher Lee Todd.

17 Chris Todd is charged with possession with intent to
18 distribute methamphetamine. There are two things that
19 are not in dispute in this trial. One is that it was a
20 traffic stop on May the 10th, 2012. Two, there were
21 drugs found in the trunk of the car.

22 The main crux of this case is who did those drugs
23 belong to. What you're going to hear -- and I think
24 you'll hear it in the State's case -- is that one other
25 passenger in that car claimed that the drugs were hers,

1 not that they were my client's. But yet law enforcement
2 charged all three of the individuals in the vehicle with
3 possession with intent to distribute methamphetamine.
4 They're all charged with the same crime. Three people
5 shouldn't be charged with the same crime if one person is
6 owning up and saying those drugs are mine.

7 So what you're here for today, as Mr. Campbell
8 stated and as the Judge succinctly stated, is reasonable
9 doubt is what this case is all about. And I disagree
10 with Mr. Campbell that if you think he did it, find him
11 guilty; if you don't think he did it, find him not
12 guilty. Reasonable doubt is a higher standard, a higher
13 burden of proof that the State must meet than just that.

14 So I would ask you to pay close attention to the
15 witnesses on the stand because Mr. Campbell's right.
16 That's where your facts are going to come from. And this
17 is the most important day in my client's life. You can
18 believe that. He's on trial for a crime in the state of
19 South Carolina, a crime which he says he did not commit.
20 And it's his constitutional right to exercise a trial by
21 jury, and that's what he's doing. A trial of his peers.

22 So after you hear all of the witnesses, the Judge's
23 instructions, my final argument and Mr. Campbell's final
24 argument, I hope and pray and believe that you'll come to
25 the conclusion that my client is not guilty of possession

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1 with intent to distribute methamphetamine. Thank you.

2 THE COURT: You may call your first witness.

3 MR. CAMPBELL: Your Honor, the State calls
4 Chris Whitfield to the stand.

5 CHRIS WHITFIELD,

6 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

7 DIRECT EXAMINATION

8 BY MR. CAMPBELL:

9 Q. Mr. Whitfield, were you employed with the Anderson
10 County Sheriff's Office back on May 10, 2012?

11 A. I was.

12 Q. In what position or capacity were you employed as?

13 A. I was a member of the CATCH Team, which stands for
14 Criminal Apprehension Through Community Help. It's a
15 proactive street crimes team. I was one of the K-9
16 handlers for that team.

17 Q. Now, are you currently employed by the Sheriff's
18 office?

19 A. No, I'm not.

20 Q. And how long were you in law enforcement?

21 A. About seven and a half years.

22 Q. And why are you no longer working at the Sheriff's
23 office?

24 A. Financial reasons.

25 Q. Now, I want to talk to you. Do you recall the

1 arrest you made on May 10th, 2012, of Mr. Todd?

2 A. I do.

3 Q. Is Mr. Todd in the courtroom today?

4 A. Yes, sir, he is. Right there.

5 Q. Is he seated next to Mr. McElhannon?

6 A. Yes, sir.

7 Q. Now, I want to talk to you about how that came
8 about. Do you recall approximately what time of day it
9 was when you made contact with him?

10 A. It was close to midnight; I'd say around eleven-
11 thirty or so.

12 Q. And were you in your official capacity as a law
13 enforcement officer?

14 A. I was, in a marked patrol car.

15 Q. When you say marked, what does that mean?

16 A. I had the stripes on the side of it. It was marked
17 K-9 Unit, black tinted windows, white car.

18 Q. And were you also in uniform?

19 A. I was. I was in the green uniforms that we wore.
20 Kind of -- more like a Big U-type uniform.

21 Q. And do they identify you as working in law
22 enforcement?

23 A. They do. They have a star on the front and sheriff
24 written plainly on the back.

25 Q. Now, when did you first come into contact with Mr.

1 Todd?

2 A. I was facing on Sayre Street. I guess it would be
3 the northbound lane. The vehicle come in front of me as
4 I was sitting at the red light. I turned right behind it
5 onto Lewis Street, followed behind the vehicle.

6 Q. Now, initially when the vehicle crossed in front of
7 you, was it doing anything wrong?

8 A. No, sir, it wasn't.

9 Q. And were you looking to make a traffic stop on this
10 vehicle at that point in time?

11 A. No, sir, I was not.

12 Q. Did you continue following this car?

13 A. I did. I followed the vehicle up Lewis Street. As
14 we was traveling up Lewis Street, I noticed the backseat
15 passenger turning around and looking at me. That, in
16 itself, wasn't odd or out of character, I guess you would
17 say. I mean, a lot of people turn around and look at the
18 police when they're behind them and get nervous. That
19 was fine.

20 As we traveled up the road, the vehicle turned or
21 went towards a curve at the ballfield coming up to the
22 intersection at Murray Avenue. The vehicle straddled the
23 line, drifted over the yellow line. At that point, I
24 kind of figured, well, maybe they've been drinking a
25 little bit. Maybe they're turning around looking at me

1 because maybe they had an open container in the vehicle.

2 At that point, I decided I would initiate the traffic

3 stop due to the traffic infraction of crossing the center

4 line and to see what was going on in the vehicle.

5 Q. And when you say he crossed the center line, what

6 exactly are you talking about?

7 A. As it went into the curve, the vehicle drifted over

8 and straddled the center line out of his lane of travel

9 and drove for a short bit in the other lane, straddling

10 the yellow line and then back into his lane of travel.

11 Q. And at that point, did you make a traffic stop at

12 that point in time?

13 A. At that exact moment, no, I did not. We were just

14 coming out of a curve. We were coming up on some

15 railroad tracks. We was coming up on an intersection.

16 For my safety, the vehicle occupants' safety, the general

17 public's safety, I decided I'd wait until we got across

18 the railroad tracks across the big intersection of Murray

19 Avenue, make the traffic stop across the street on Lewis

20 Street.

21 Q. Now, are you by yourself in this vehicle?

22 A. Other than my German Shepard, that was it.

23 Q. Now, as you were following behind, what kind of

24 vehicle was it?

25 A. It was some type of Kia vehicle, a very small Kia

1 vehicle, four-door. I think it was a light blue.

2 Q. Now, could you tell as you were following behind,
3 was there any other occupants in this vehicle besides the
4 driver?

5 A. There was three occupants in the vehicle. You could
6 see with my headlights the backseat passenger. And then
7 when the vehicle crossed in front of me, I could see two
8 people in the front seat. When it crossed in front of me
9 initially.

10 Q. At some point, did you activate your blue lights to
11 attempt to stop this car?

12 A. I did. The vehicle -- after we crossed the
13 intersection, the first road to the left on Lewis Street
14 was Harris Street. The vehicle turned left onto Harris
15 Street. I made the traffic stop on the vehicle, turned
16 the blue lights on, started to call in the stop. The
17 vehicle traveled on down Harris Street to -- I believe
18 it's the first or second road to the right which is
19 Clarence Avenue, off of Harris Street. Again, this
20 didn't strike me as odd because with my training and past
21 experiences, if somebody had been drinking or possibly
22 didn't have a driver's license, they might live in the
23 area. They were trying to get home so that we didn't tow
24 their vehicle. Out of common courtesy, we'd leave it at
25 their house. So again, I didn't think it was odd that we

1 traveled that far down Harris Street to stop on Clarence
2 Avenue.

3 Q. And are you in the county or the city where this is
4 occurring?

5 A. County.

6 Q. The county of Anderson?

7 A. Uh-huh (affirmative).

8 Q. And at some point, the car did come to a stop?

9 A. It did, on Clarence Avenue.

10 Q. And as you came in, what occurred next?

11 A. I called the traffic stop in as normal, turned my
12 spotlight on like we normally do in the night hours, lit
13 the vehicle up. I could see there was three occupants in
14 the vehicle. I got out of the vehicle, walked up to the
15 driver's door, spoke to the driver. The driver said he
16 knew he shouldn't be driving.

17 Before -- let me back up just a second. Before that
18 happened, when the vehicle did finally come to a stop,
19 the driver put the vehicle into park because the reverse
20 lights lit up. The driver then put the vehicle back into
21 drive. The reverse lights came on again, so I knew that
22 -- that's the reason I stayed in my car a little longer
23 than I normally do.

24 But after I figured out the vehicle was going to be
25 at a complete stop, I got out and made contact with the

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1 driver. The driver advised me he was coming from
2 Walmart, he shouldn't be driving. I got the driver out,
3 ran the driver through dispatch. Dispatch advised the
4 driver was driving under suspension. He was arrested at
5 that time for driving under suspension.

6 Q. And after you arrested him, did you do any other
7 thing to him?

8 A. I patted him down for weapons. I found a glass
9 bowl-type pipe in his pocket that's commonly used for
10 narcotics. I found that, put it on the roof of the car,
11 took him back to my car or to the front of my car to
12 conduct business. I called for assistance just due to
13 the fact the time of the night. There was three people
14 in the vehicle. I couldn't handle three people while I
15 was trying to deal with the driver all at one time.

16 Q. At that point, how long did it take for backup to
17 arrive?

18 A. I'd say less than five minutes.

19 Q. And who came there?

20 A. Deputy Proner. Actually, it was Deputy Bannister
21 and then Deputy Proner.

22 Q. Okay. Now, this car that you just pulled over --
23 you said it was a Kia -- were you able to run its tag?

24 A. I did.

25 Q. And were you able to find out who was the owner of

1 this vehicle?

2 A. The vehicle came back to A&D Auto Sales. It's a
3 used car lot in Belton.

4 Q. Was this a -- somebody owned it or was this a rental
5 vehicle?

6 A. It was a rental vehicle. They also do rental cars.
7 We've had dealings with them in the past, with the rental
8 company, with their vehicles. But it was a rental
9 vehicle.

10 Q. Now, I am going to show you what's been marked
11 State's Exhibit 11. I'm going to show you what's been
12 marked as State's Exhibit 11. Can you please identify --
13 pull it out and please identify it?

14 A. That would be the glass pipe that I got out of his
15 pocket.

16 Q. Okay. Can you recall which pocket this was in?

17 A. I believe it was in his right -- I believe it was
18 some workout shorts, jogging shorts kind of thing, right
19 pocket.

20 MR. CAMPBELL: Your Honor, can I publish this
21 to the jury, just hold it up and show it to them?

22 THE COURT: Yes, sir, you may.

23 MR. CAMPBELL: This is State's Exhibit 11.

24 THE COURT: For the record, let me ask you
25 this, now, Mr. McElhannon. Are there exhibits that have

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1 been admitted by way of agreement?

2 MR. MCELHANNON: Yes, sir. Well, I don't think
3 they've formally done it, but I'm not objecting to that.

4 THE COURT: Okay. Do you know what numbers
5 those would be?

6 MR. CAMPBELL: It's going to be, well, 1
7 through 13. We have gone through and looked at it
8 together.

9 THE COURT: 1 through 13?

10 MR. CAMPBELL: I think it is.

11 MADAM COURT REPORTER: 11.

12 MR. CAMPBELL: 11.

13 THE COURT: 1 through 11; is that correct?

14 MR. MCELHANNON: That's correct, Your Honor.

15 THE COURT: Okay. State's 1 through 11 will be
16 admitted without objection; is that correct?

17 MR. MCELHANNON: Yes, sir.

18 THE COURT: All right.

19 (WHEREUPON, State's Exhibits Number 1 through 11
20 were admitted into evidence.)

21 Q. Now, after you collected this glass pipe off of him,
22 did you keep it in your care custody and control?

23 A. I did. I placed it on the hood of my -- or the roof
24 of that Kia while I continued my pat-down. Then I
25 brought him and the glass pipe back to the hood of my

1 car.

2 Q. And did you eventually turn this in to evidence?

3 A. Yes, sir.

4 Q. And did you request for it to be tested?

5 A. I did. I requested it to be tested for any
6 substance to be in it and also fingerprints off of it.

7 Q. Now, at this point in time, you have arrested Mr.
8 Todd. He's the driver of this vehicle. Had you planned
9 on towing this vehicle, or what, if anything, what was
10 your intentions on doing to the car?

11 A. We have kind of a relationship with A&D Auto Sales.
12 The backup officer was there and knows the owners of A&D
13 pretty well. Usually, we give them a courtesy call to
14 save them a tow bill. We actually made a phone call to
15 the owners. Both of the owners came out that night to
16 retrieve the vehicle.

17 Q. And why didn't you just let one of the other two
18 passengers in the vehicle take the car?

19 A. When we ran the name and dates of birth of the two
20 passengers, neither one of them had a valid South
21 Carolina Driver's License. And by policy with the
22 Sheriff's office and the State of South Carolina, I can't
23 let a non-licensed driver drive the car away from the
24 scene.

25 Q. And as a result of that, did you do anything with

1 the car after that?

2 A. Myself and Deputy Bannister inventoried the vehicle
3 for -- before anybody else took custody of the vehicle,
4 we inventoried it for our purposes.

5 Q. And what's the purpose of doing an inventory?

6 A. So nobody can come back and say we took something
7 from their vehicle, whether they had personal belongings,
8 rings, jewelry, money, personal items, cell phones,
9 anything to say that we could have took it after we took
10 them out of the car.

11 Q. Now, at this point in time, you conducted a search
12 of the vehicle?

13 A. Yes, sir.

14 Q. And what, if anything, did you find in this vehicle?

15 A. In the portions of the vehicle where occupants were
16 at, we didn't find anything out of the ordinary until we
17 got to the back seat where there was some syringes found
18 in the back, left seat where, I believe, it was later
19 found out it was the Defendant's sister.

20 Q. And who was that?

21 A. Michelle Crisp, Retta Crisp.

22 Q. And who was in the front seat?

23 A. Frances Moore. She was later found out -- that's --
24 I don't know if they're married, but I know they have a
25 baby together.

1 Q. Now, as a result of you finding needles in the back
2 seat, did you continue searching the rest of the vehicle?

3 A. We did. Once we completed our inventory of the
4 inside of the vehicle where the occupants was at, we
5 moved to the -- or Deputy Bannister popped the trunk and
6 we started in the trunk.

7 Q. And what, if anything, did you find in the trunk?

8 A. Inside the trunk area, we immediately noticed there
9 was picture frames, other small or small items. It was
10 household items. The Defendant later told us that he'd
11 been cleaning out his mother's residence. But on top of
12 all the picture frames in the back of the car was one
13 single Pringles can, a purple Pringles can, that lay on
14 top of all of the picture frames and trinkets from a
15 house and things of that nature, which kind of struck me
16 as odd as why one single Pringles can was laying on top
17 of household items.

18 Q. And what did you do with the can?

19 A. The can, when I opened it -- or when I picked the
20 can up, the can's weight wasn't consistent with potato
21 chips. Once I moved the can one way, something slid
22 inside the can and kind of made a thud. I opened the can
23 up immediately and noticed there was some black digital
24 scales, plastic baggies. At that time, we detained
25 everybody at that time until we see what we had. I

1 emptied that entire Pringles can out on the hood of my
2 car. And that's where we found the narcotics, the
3 digital scale and more baggies.

4 Q. And were the items that you found consistent with a
5 type of distribution?

6 A. It was. There was numerous baggies, rubber bands to
7 tie up the individual baggies. The digital scales with
8 residue on them to weigh out the product.

9 Q. And at that point in time, did you place everybody
10 into custody?

11 A. Everybody was placed in custody.

12 Q. Now, I want to show you what's been marked State's
13 Exhibit 10, if you can identify what's in this item, sir.

14 A. This would be the Pringles can and the digital
15 scales.

16 Q. And these were items that you recovered that night?

17 A. Yes.

18 Q. Is there anything inside the can?

19 A. It's some batteries.

20 Q. You can look in there.

21 A. Batteries for the scale and another baggie. Do you
22 want me to take the baggie out?

23 Q. Now, this set of scales was found inside the can?

24 A. It was.

25 Q. And besides the scales, did you find anything else?

1 A. Baggies and a crystal-like substance wrapped up in a
2 bag, that we later ---

3 Q. I'm going to show you what's been marked State's
4 Exhibit 9. If you could please identify what this is,
5 sir?

6 A. These were the baggies that was located or this is
7 the product that was in the baggies that we had located
8 in the Pringles can.

9 Q. So this, State's Exhibit 9, came out of this
10 Pringles can?

11 A. Yes.

12 Q. And as a result of finding State's Exhibit 9, at
13 that time, did you believe this possibly was a narcotic,
14 an illegal narcotic?

15 A. Yes, I did.

16 Q. Okay. And did you do any type of test while you
17 were on the scene to possibly determine if, in fact, it
18 was an illegal narcotic?

19 A. I did. I had my corporal, Corporal Foster, who's
20 present in the courtroom, I had him bring me a test kit
21 for methamphetamines. We did the test kit on the side of
22 the road. It popped positive narcotics. It was a blue
23 color.

24 Q. And please explain -- could you please explain to
25 the ladies and gentlemen of the jury what you mean when

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1 you do a field test, what are you talking about and how
2 that operates?

3 A. We have a test that we carry or that we have in our
4 patrol vehicles. It's got two vials in it. You take one
5 part -- you take it apart, take a small quantity of the
6 suspected, whatever you suspect it is -- each one of the
7 tests is labeled different drugs. Just put a very small
8 quantity in it, pop one of the vials and pop the top and
9 shake them together. And if it has the chemical reaction
10 needed to tell you what it is, then it will turn it --
11 the test will actually tell you what color it's supposed
12 to turn. And for methamphetamines for the test that we
13 had was blue.

14 Q. Okay. And as a result of that -- you knew you had
15 an illegal narcotics substance on your hands -- did you
16 question the three individuals, Mr. Todd, Ms. Moore and
17 Ms. Crisp on the side of the road regarding whose dope
18 this was?

19 A. We did. I questioned if anybody was going to claim
20 ownership of the narcotics. No one claimed ownership.
21 Mr. Todd actually told Frances several times, you need to
22 take this. I can't take a hit. He continued numerous
23 times telling her what to do. She needs to take it. Her
24 lawyer will get her out of it. Or his lawyer will get
25 her out of it.

1 At that time, Frances spoke up and said, it's mine.
2 I stopped what I was doing at that point, retrieved my
3 Miranda card read Miranda rights to everybody involved,
4 everybody that was all around the front of my patrol
5 vehicle.

6 Once I read the Miranda rights, Ms. Moore had
7 already began crying. She began to cry heavier. Mr.
8 Todd was still telling her, you need to take this charge.
9 You need to take this charge.

10 Once I read the Miranda rights, I asked again, are
11 you willing to take -- are you taking ownership of the
12 narcotics? She said, no. I wish to speak with my
13 attorney. And at that time, all parties requested an
14 attorney at that time and all questions stopped.

15 Q. And were all three arrested for the same drugs?

16 A. All three was arrested for the drugs.

17 Q. Now, I'm going to show you what's been marked ---

18 MR. CAMPBELL: Your Honor, may I have the
19 witness step off the stand, please, sir?

20 THE COURT: Sure.

21 Q. Mr. Whitfield, if you'll please step off the stand.

22 I'm going to show you -- first, I'm going to show you

23 what's been marked State's Exhibit 3, 4, 5 and 6. I'm

24 going to take them a little out of order. I'm going to

25 first show you what's -- first, I'm going to let you take

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1 a look at these. And would you please face the jury and
2 just -- please take a look at these and tell me, are
3 these pictures of the scene that night?

4 A. They are.

5 Q. And do these pictures fairly and accurately
6 represent what you saw and observed on the night of May
7 10th, 2012?

8 A. Yes, sir.

9 Q. Now, first, I'm going to show you State's Exhibit 4.
10 Can you please describe for the ladies and gentlemen of
11 the jury what exactly they are seeing or observing in
12 this photograph?

13 A. That is a tag in the trunk area of the Kia, of the
14 car that I pulled over that night.

15 Q. And this is the vehicle that Mr. Todd was driving;
16 is that correct?

17 A. Yes, sir, it is.

18 Q. Let me show you what's been marked State's Exhibit
19 5. What does this detect or indicate?

20 A. This is the Pringles can after we pulled it out of
21 -- after pulling the scales out, one baggie. And as you
22 can see, there's still numerous baggies inside the
23 Pringles can. And that's my flashlight.

24 Q. And what is the -- what is this object right here?

25 A. That would be the digital scales. The top to the

1 digital scales is back right there.

2 Q. Is this what you just observed in State's Exhibit
3 10?

4 A. The Pringles can, yes.

5 Q. Okay. And what is this at the end of the flashlight
6 right here?

7 A. That would be the narcotics, the crystal-like
8 narcotics that we found.

9 Q. And that's what you're indicating in State's Exhibit
10 Number 9?

11 A. Yes.

12 Q. I'm going to show you State's Exhibit 6. Can you
13 please identify what that is, sir?

14 A. That's one of the test kits that we use. As you can
15 tell, it's tested positive with the blue color.

16 Q. And what exactly -- how do you test it to begin
17 with?

18 A. You actually -- if you see the light, it's kind of
19 cardboard material at the top right there. You actually
20 take that apart and you can take a small quantity of the,
21 whatever the suspected narcotics is, and drop down in it
22 and put the lid back on it and then pop the two vials and
23 shake it together.

24 Q. And if it reacts it's a positive?

25 A. If it reacts to a positive, it tells you on the

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1 cardboard the instructions of how to use it and what
2 should happen.

3 Q. And in this case it indicated methamphetamines?

4 A. It did.

5 Q. And I'm going to show you State's Exhibit 3. What
6 exactly is this depicting?

7 A. That would be the roadside weight that we obtained
8 on the narcotics.

9 Q. Okay. Now, is this the narcotics that came out of
10 the Pringles can?

11 A. It is.

12 Q. Now, this set of scales here, is this a set of
13 scales that were seen in State's Exhibit 10?

14 A. No.

15 Q. Where did those scales come from?

16 A. Those scales probably come from one of our patrol --
17 whoever had a set of digital scales for us to use.

18 Q. Now, are these scales accurate?

19 A. No. They just give you a preliminary weight. You
20 actually get the actual weight once you complete your
21 Best Kit and turn everything into evidence and the
22 forensics lab gets a hold of it to actually take it out
23 of the bag. Because we don't take the product out of the
24 bag. What you see is how we put it in evidence. And
25 that just gives me a preliminary weight to give me a

1 basis on what I need to charge the defendant with.

2 Q. And in this case, these scales are not accurate or
3 calibrated a hundred percent?

4 A. No, they're not.

5 Q. Mr. Whitfield, please take the stand.

6 (WHEREUPON, the witness resumed the witness stand.)

7 Q. Now, as a result of that, you took the narcotics and
8 the Pringles can and the scales. Did you submit these to
9 evidence?

10 A. I did. I left the traffic stop -- being a K-9 Unit,
11 I couldn't transport the defendants. I had to have
12 somebody transport my prisoners for me. I took
13 everything back to the office, started working on all the
14 paperwork. I had to turn it in as quickly as possible.
15 Filled out the forensic report for the narcotics. And
16 also filled out a separate report to try to get
17 fingerprints off of the bags, the Pringles can. Every
18 item that I turned in to evidence, I turned in to get
19 fingerprints off of.

20 Q. And was any fingerprints recovered off these items?

21 A. No, there were not. In my seven and a half years, I
22 have not had too many things return to me with a positive
23 match for a fingerprint.

24 Q. So you didn't find this out of the ordinary?

25 A. No, I didn't.

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1 Q. Now, as a result of that -- now, you're in a marked
2 sheriff's office patrol car. Did this patrol car have
3 audio or video capability?

4 A. It does.

5 Q. And did you -- were you able to have a video or
6 audio tape regarding this traffic stop?

7 A. No, I did not. My video shows that -- or the T.V.
8 in my patrol unit showed that I actually had the camera
9 and that it was working properly, which I later found out
10 that the camera -- the T.V. screen was working properly.
11 It was the actual V.C.R. that was not working properly to
12 record everything. So I had no video or any audio. I
13 later, once I found this out, submitted my paperwork to
14 have my car worked on. They actually found that there
15 was a problem with my recording device. And it was
16 actually in the trunk of my car.

17 (WHEREUPON, State's Exhibit Number 12 was marked for
18 identification only.)

19 MR. CAMPBELL: Court's indulgence, please?

20 THE COURT: Yes, sir.

21 MR. CAMPBELL: Your Honor, I showed this to Mr.
22 McElhannon, State's Exhibit 12. I wanted to show it to
23 the witness at this time.

24 THE COURT: Any objection to that, Mr.
25 McElhannon?

1 MR. MCELHANNON: No, Your Honor.

2 THE COURT: Okay. Admitted without objection.

3 (WHEREUPON, State's Exhibit Number 12 was admitted
4 into evidence.)

5 Q. Mr. Whitfield, I want to show you what's been marked
6 State's Exhibit 12. If you'll please identify what this
7 is, sir?

8 A. This is a work order receipt that we receive after
9 our vehicles have been worked on.

10 Q. And was this when you attempted to turn you vehicle
11 in to have this videotape -- your audio system looked at?

12 A. I did. My vehicle was due for service not long
13 after this anyway, right after this particular traffic
14 stop. And once I discovered that my camera wasn't
15 working, I turned it in, you know, and got them to see
16 what was wrong with it. And they found that it was -- it
17 was a bad tape in the V.C.R. and they replaced it.

18 Q. And at the time of the traffic stop, did you have
19 any way of knowing that this tape was actually, in fact,
20 bad?

21 A. No. This has happened before. This happened -- it
22 happens numerous times with the older equipment. I mean,
23 there's a lot of heat in the trunk of our cars..

24 Obviously, there's a lot of stuff in the trunk of our
25 cars. When I hit my blue lights in my patrol car, my

1 camera automatically comes on. There's a T.V. screen
2 right above my -- where the dome light's at. So I can
3 see what it's saying so everything's focused. To this
4 point, even that night, when I hit my blue lights, it
5 comes and it shows that it's functioning like it should.
6 Everything is on the T.V. screen, no errors. But there's
7 no video. When you go to try to rewind it or you try to
8 play it, it's nothing but the scrambled tape.

9 Q. Now, after this, did you write Mr. Todd a traffic
10 citation for driving under suspension?

11 A. I did. It was a time -- it was several days after
12 the actual incident happened. I wanted to make sure I
13 got the correct driving charge on him. I actually,
14 instead of going through our -- once our dispatch advised
15 me that he was suspended, which is what I needed for the
16 arrest, I actually went to the D.M.V. and got a certified
17 copy from the D.M.V. of Mr. Todd's driving record so that
18 I could make the proper charge, of which driving under
19 suspension in this would particularly be.

20 Q. And when you're saying D.M.V., are you referring to
21 ---

22 A. The Department of Motor Vehicles.

23 Q. And I'm going to show you what's been marked as
24 State's Exhibit 2. If you'll please identify what this
25 is, sir?

1 A. This is the ticket I wrote him for driving under
2 suspension third and subsequent events.

3 Q. Now, you said you wrote this a couple of days later
4 after you got official confirmation from the D.M.V. Had
5 you already placed a charge on him for the narcotics that
6 was found?

7 A. It was. A hold was placed on him at the jail the
8 night of the incident.

9 Q. And did you serve him with a warrant for ---

10 A. I did, the very next day.

11 Q. --- possession with intent to distribute
12 methamphetamines?

13 A. Yes.

14 Q. Now, the vehicle you said was rented from A&D Auto
15 Sales, did you after the fact go back and contact him and
16 see if in fact that was actually what happened?

17 A. When I talked to A&D and got a copy of the rental
18 agreement, it was later known that the vehicle was rented
19 that day, the day the incident occurred. Mr. Todd was
20 not the registered renter for the vehicle. His father
21 actually was with the same address that comes back to the
22 Defendant where his D.M.V. records actually say he lives
23 also. The rental agreement plainly states that ---

24 Q. Here. I'll show you what's marked as State's
25 Exhibit 1. If you'll identify that, sir.

1 A. This is the rental agreement. The rental agreement
2 says, no unauthorized driver. The Defendant's not listed
3 anywhere on here as being a driver for the vehicle. His
4 father is the only one rented for -- the only one who
5 rented the vehicle is authorized to drive it.

6 Q. Was Ms. Moore or Ms. Crisp also -- either one of
7 those two individuals listed as a potential driver?

8 A. No. Mr. Human is the only person who rented or is
9 registered to drive the vehicle.

10 Q. Now, Mr. Whitfield, in this case you are the person
11 who brought the actual charge, possession with intent to
12 distribute methamphetamines, against Mr. Todd; is that
13 correct?

14 A. Yes.

15 Q. You're the one that took out the warrant?

16 A. I did.

17 Q. Why, in fact, are you saying that Mr. Todd is the
18 person who had ownership of these drugs?

19 A. Normally, the driver is usually in possession of
20 what's in a vehicle. And typically the driver takes
21 charge of everything in the vehicle. Mr. Todd took
22 charge of the situation out there. He talked to them.
23 They only answered him when they were talked to. He
24 spoke to Frances telling her what she needed to do, his
25 lawyer would get her out of it. She needs to take the

1 charge. And it was a continual thing. She was
2 constantly getting more and more upset during the entire
3 process. She was crying, very emotional. And he took
4 control of the situation with the occupants of his
5 vehicle.

6 Q. And when you heard he was telling her this, how
7 close to him were you?

8 A. I was at the front of my car. He was standing to
9 the right. She was -- Frances was to the right of me and
10 Loretta was to the left of me at my other fender.

11 Q. And how far distance-wise would you say?

12 A. Less than three foot.

13 MR. CAMPBELL: The Court's indulgence, please?

14 THE COURT: Yes, sir.

15 Q. Now, let me go back, a little bit back, to the
16 search of the vehicle. You said you found a glass pipe
17 on Mr. Todd and Ms. Crisp had some needles. Did Ms.
18 Moore have anything on her?

19 A. No, she did not.

20 Q. And did she have any type of drug paraphernalia on
21 her?

22 A. No. Not that I found, no.

23 Q. Now, who had possession of the keys to this vehicle?

24 A. Mr. Todd.

25 Q. And did you get the keys from him?

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1 A. They were in the ignition.

2 Q. The ignition, all right. To your knowledge, did
3 anyone else have the key or access to the trunk of this
4 vehicle?

5 A. Not to my knowledge, no.

6 Q. And why are you charging him with distribution, not
7 just possession?

8 A. The baggies, several individual baggies, rubber
9 bands to bundle each baggie, those scales, the amount
10 that was there, which was not -- to me didn't seem
11 personal use to have. Why was it in a different
12 container? Why did it have so many baggies with it? Why
13 was there scales with it with residue on the scales. And
14 that's how it appeared to me as distribution or being
15 marketed to be sold.

16 Q. Now, you are the case officer of this case; is that
17 correct?

18 A. Yes, sir.

19 Q. Do you also rely upon the other officers to help you
20 when you make a case?

21 A. Yeah, I do.

22 Q. And in this case, did you ever ask or request
23 anybody or any other officer to monitor the jail phone
24 system?

25 A. Yes. There was several. Investigator Gebing,

1 Deputy Neuberg, that was the two that I had spoke with
2 about it.

3 Q. And you asked Detective Gebing to look into it?

4 A. Yes.

5 MR. CAMPBELL: Your Honor, that's all I have
6 for this witness.

7 THE COURT: All right.

8 Cross-examination?

9 MR. MCELHANNON: Thank you, Your Honor.

10 CROSS-EXAMINATION

11 BY MR. MCELHANNON:

12 Q. Mr. Whitfield, just let's go back from the most
13 recent questions. That Kia, Mr. Campbell brought out the
14 point that my client had -- well, the keys were in the
15 ignition, correct?

16 A. Yes, sir.

17 Q. My client was driving?

18 A. Yes, sir.

19 Q. So it just goes to -- you would assume that my
20 client had the keys in his possession at some point?

21 A. At some point, yes, sir.

22 Q. That was a fairly new car, wasn't it, that Kia?

23 A. I believe it was. It looked fairly new.

24 Q. So basically it would have probably a trunk release
25 from inside on the door or underneath the dash where he

1 could pop the trunk without getting out of the vehicle?

2 A. I guess. I didn't pop the trunk, so I don't know
3 where the trunk release was.

4 Q. Would it be fair to say though that you would not
5 need the actual key to go in or out?

6 A. No. If you were in that vehicle, you shouldn't need
7 just the key alone.

8 Q. So he could have stayed in the car and the trunk pop
9 and something put in the trunk and he didn't know about
10 it?

11 A. I guess there's a possibility.

12 Q. Now, your video that you talked about, the audio and
13 the video on your vehicle, do those have to work together
14 simultaneously, or can the audio work without the video?

15 A. When one goes out, the other doesn't work either.
16 On mine, that was the case. I mean, it ---

17 Q. And you weren't wearing -- I think the highway
18 patrol wears like a microphone on their uniform?

19 A. No. The microphone that I had actually went on my
20 belt. It's the same one that the highway patrol wears.
21 But the way that I carried mine, I didn't need that
22 microphone that you're speaking of. It would pick up.

23 Q. But that one, your video and audio ---

24 A. If my video and audio were working, it would have
25 been -- everything would have been fine.

1 Q. Okay. And do you think -- you said you just
2 realized that day on May the 10th that it was not
3 working?

4 A. I realized it after the traffic stop was completed.
5 I guess it was just me being a stickler on my paperwork.
6 I always try to get that entire case jacket -- because
7 being on the CATCH Team, I didn't have calls I needed to
8 go answer. So I had the time to work on my paperwork
9 right after the stop so I could concentrate on it while
10 everything was still fresh in my head. I could do
11 everything right then to have my case jacket ready for my
12 corporal and then my other supervisors.

13 When I took the tape up there to watch the tape,
14 that's when it was nothing. You would just rewind it.
15 It would click or you would -- you might see a portion of
16 something like something was going to be made up, and
17 then it looked like -- I'm sure you're aware of the
18 tracking on a tape. That's just that gray screen.
19 That's all it was. There was no audio, no nothing. And
20 that night I rewound the tape to keep it, to see if I had
21 anything before it. And that tape was just not working.

22 Q. That was going to be my next question. Did you
23 rewind it prior to this stop to see ---

24 A. I rewound it as far as -- I rewound it. As a matter
25 of fact, probably to the very beginning. And it was

1 nothing -- it started playing and then it would do that
2 at each stop. Like every time I hit my blue light, I
3 would get just a piece and then it would go out.

4 Q. So basically -- would that have been one day or
5 longer than one day?

6 A. It would have been longer than a day.

7 Q. So every ---

8 A. Every time I stopped somebody, that -- whatever was
9 on that tape was gone.

10 Q. Every stop that you made?

11 A. And I had no way of knowing with my camera. If my
12 camera wouldn't have come on every time I hit my blue
13 lights to make me believe that -- because the way that
14 one's set up in the car, as soon as I hit my front blue
15 lights, the T.V. turned on. And that was it. I mean,
16 that's what told me that it -- and I actually had to hit
17 the stop button on the T.V. to make the T.V. go off after
18 the stop was over with. So that in itself told me or
19 that I assumed that everything was working properly until
20 I went back to play it.

21 Q. And they do that because actually the statute for
22 D.U.I. says that the video's supposed to activate as soon
23 as your blue lights activate, correct?

24 A. Exactly.

25 Q. And if it doesn't, normally those cases are thrown

1 out when it doesn't work?

2 A. I believe so. I haven't faced that with a D.U.I.

3 Q. Now, my client was driving, Frances Moore was in the
4 passenger seat, front seat, and Michelle Crisp was in the
5 back seat, correct?

6 A. Yes, behind the driver.

7 Q. So it would have been Ms. Crisp that was turning
8 around looking at you when y'all were -- when you were
9 behind them?

10 A. Right.

11 Q. And she's the one that apparently the bag of needles
12 was ---

13 A. In the back seat.

14 Q. --- found on her. And those would be drug
15 paraphernalia as well?

16 A. You can consider it drug paraphernalia with the -- I
17 mean, with the proper investigation, you could. But I'm
18 just saying seeing simple syringes in somebody's vehicle,
19 I couldn't -- she might have been diabetic.

20 Q. So they could have been those type of needles?

21 A. Could have.

22 Q. Diabetic or whatever?

23 A. Could have.

24 Q. And when everyone was taken out of the vehicle and
25 the Pringles can was found in the trunk, how long was it

1 before anyone started saying anything as far as the three
2 occupants of the vehicle?

3 A. I don't understand what you're asking me.

4 Q. Did they see the Pringles can taken out of the
5 trunk, or how did ---

6 A. They saw me take the Pringles can out. There
7 wasn't a lot of talk until I dumped it out on the hood of
8 my car.

9 Q. Okay. And you say that my client said what?

10 A. He was giving -- he told Frances to take -- she
11 needed to take the hit.

12 Q. Okay. But you didn't know and you don't to this day
13 know, I guess -- well, you can tell me if you do. That
14 he wasn't saying take the hit because they weren't his
15 drugs, do you?

16 A. All I know is what he said. He said, don't take a
17 hit. She got -- or to take the hit for him and that his
18 attorney would get her out of it.

19 Q. Well, he didn't say for him, did he?

20 A. Not that I recall.

21 Q. He just said take the charge?

22 A. He said take the charge. And then she became upset,
23 and then that was -- there was no more talking after
24 that.

25 Q. But she said -- she did say, it's all mine, to begin

1 with, right?

2 A. She said, it's all mine.

3 Q. And that's when if you're admitting something as far
4 as anything like meth, it's yours, I would think you
5 would become upset if you're admitting that to law
6 enforcement. Would that be fair?

7 A. Yeah.

8 Q. And then when you questioned her again about that
9 after she'd already admitted the drugs were hers, at that
10 point she basically shut up and said, I want to talk to a
11 lawyer?

12 A. Yes.

13 Q. Which, again, that's her right, I guess, when you
14 read her *Miranda* or you repeated her *Miranda* ---

15 A. Yeah. As soon as she asked to do that, no one spoke
16 to them after that.

17 Q. And you took prints basically of all the items that
18 are up here, correct?

19 A. I turned them -- everything that was turned in was,
20 had a fingerprint request filled out for it.

21 Q. Now, you didn't do that? Detective Gebing ---

22 A. No. One of the forensics investigators.

23 Q. Todd Caron or someone did?

24 A. Somebody in the forensics department took care of
25 that.

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1 Q. And even the glass pipe that was found in Mr. Todd's
2 pocket had no latent prints on it?

3 A. To my knowledge. I haven't seen a copy of the
4 fingerprint, but I know everything was turned in for
5 fingerprints.

6 Q. Okay. So you're not testifying to actual -- whether
7 there were fingerprints or not?

8 A. No.

9 Q. That's not your area, that's someone else's?

10 A. No, that's not for me.

11 Q. Mr. Whitfield, in speaking with Frances Moore, did
12 she tell you that she had gotten a box out of another
13 home and placed it in the trunk?

14 A. She did not.

15 Q. But according to your report, she said, all of this
16 is mine? She was talking about all the stuff in the
17 trunk?

18 A. That's the statement she made. All of this is mine.

19 MR. MCELHANNON: That's all the questions I
20 have.

21 THE COURT: Redirect?

22 MR. CAMPBELL: Just a couple.

23 REDIRECT EXAMINATION

24 BY MR. CAMPBELL:

25 Q. Now, Mr. Whitfield, Mr. McElhannon was asking you

1 about who had knowledge of the drugs. In your opinion,

2 did Mr. Todd have knowledge of the drugs?

3 A. Yes, sir.

4 Q. That were in the car?

5 A. Yes, sir.

6 Q. And what do you base that on?

7 A. The way he took control of it, telling -- if it was

8 hers, why didn't she saying anything at that point? Why

9 did he -- she was ---

10 MR. MCELHANNON: Objection, Your Honor. That

11 calls for speculation.

12 THE COURT: I'll sustain that.

13 A. She ---

14 Q. No. Hold on just one second. You can't say what

15 you think she would have done.

16 A. Okay.

17 Q. Do you have anything further on that?

18 A. No.

19 Q. Now, when she became upset, based upon your

20 observation, was she becoming upset because you caught

21 her with her drugs or because he was forcing her to take

22 ownership of the drugs?

23 MR. MCELHANNON: Objection, Your Honor. Again,

24 calls for speculation as to why she became upset.

25 THE COURT: Lay some foundation for that,

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1 please, sir.

2 Q. Out on the side of the road, you had all three
3 individuals outside the vehicle; is that correct?

4 A. Yes, sir.

5 Q. Prior to you finding this Pringles can, what was the
6 demeanor of the individuals?

7 A. Just the norm -- I mean, they wasn't the happiest in
8 the world for what was going on, but nobody was crying.
9 They were talking. I mean, it was just a normal traffic
10 stop ---

11 Q. And ---

12 A. --- to begin with.

13 Q. I'm sorry. Go ahead.

14 A. To begin -- I mean, it was just a normal traffic
15 stop. He was under arrest for driving under suspension
16 at that time. They were talking. And that was it.

17 Q. And at that point -- at some point you found the
18 Pringles can?

19 A. Yes, sir.

20 Q. And you opened the Pringles can in the presence of
21 these individuals?

22 A. Yes, sir.

23 Q. When this occurred, what was Mr. Todd's response?

24 A. I don't recall exactly what his response was.

25 Q. How was his demeanor when you discovered the

1 narcotics?

2 A. It changed. He didn't talk as much.

3 Q. And how was Ms. Moore's demeanor?

4 A. She didn't have much to say either.

5 Q. And Ms. Crisp?

6 A. The same.

7 Q. Okay. At what point did Ms. Moore's demeanor
8 change?

9 A. Once Mr. Todd started talking about taking the hit
10 and that his attorney will get her off. She didn't
11 become upset until he started talking to her.

12 Q. And in your opinion, do you think that these
13 narcotics were hers?

14 A. No, I do not.

15 MR. MCELHANNON: Objection, Your Honor.

16 THE COURT: I sustain that objection.

17 MR. CAMPBELL: I have no further questions.

18 MR. MCELHANNON: Just one or two on recross,
19 Your Honor.

20 RECROSS EXAMINATION

21 BY MR. MCELHANNON:

22 Q. None of the individuals were upset until the
23 Pringles can was opened and the contents was dumped onto
24 your car or on the -- was it your car or their car?

25 A. It was mine.

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1 Q. Correct? You said they were all just talking?

2 A. Yeah. I mean, it was just your standard traffic
3 stop.

4 Q. Okay. So would it be fair to say when the Pringles
5 can was emptied out on the car and Mr. Todd saw what came
6 out of that can, he became upset?

7 A. It's possible.

8 Q. And was telling Frances Moore to take the charge
9 because he didn't know what it was, it was her stuff?

10 A. He just told her several times to take the hit.

11 Q. And she had already said -- and then she said, it's
12 mine?

13 A. And then after he said that, that's when she claimed
14 it.

15 Q. So in fairness, she could have been telling the
16 truth, it's all mine?

17 A. It's a possibility.

18 MR. MCELHANNON: Nothing further, Your Honor.

19 THE COURT: All right. May this witness be
20 excused?

21 MR. CAMPBELL: One final question.

22 RE-REDIRECT EXAMINATION

23 BY MR. CAMPBELL:

24 Q. After you mirandized her, did she take ownership of
25 the drugs at that point in time?

1 A. No, she did not.

2 MR. CAMPBELL: Nothing further.

3 THE COURT: All right. Thank you, sir. You
4 may step down.

5 Would you call your next witness, please, sir?

6 MR. CAMPBELL: Your Honor, the State calls
7 Deputy Sean Proner to the stand.

8 SEAN PRONER,

9 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

10 DIRECT EXAMINATION

11 BY MR. CAMPBELL:

12 Q. Deputy Proner, you're employed with the Anderson
13 County Sheriff's Office?

14 A. Yes, sir, I am.

15 Q. How long you been in law enforcement?

16 A. Six and a half years.

17 Q. And were you employed at the Anderson County
18 Sheriff's Office back on May 10, 2012?

19 A. Yes, sir, I was.

20 Q. On that date did you have an occasion to come into
21 contact with Chris Todd?

22 A. Yes, sir, I did.

23 Q. Is he in the courtroom today?

24 A. Yes, sir. He's here in the Defendant's seat.

25 Q. In the striped shirt?

1 A. Yes, sir.

2 Q. And how did you come into contact with him?

3 A. I was working that evening. I heard Deputy
4 Whitfield put in a call to call a traffic stop. I also
5 heard through the call, several occupants inside the
6 vehicle, and called for assistance.

7 Q. Okay. And as a result of that call -- you say
8 through dispatch, it's through y'all's ---

9 A. Over the radio.

10 Q. Over the radio?

11 A. Yes, sir.

12 Q. As a result of that, did you go to wherever this
13 traffic stop was?

14 A. Correct.

15 Q. And when you got there, what did you see and
16 observe?

17 A. When I approached or when I pulled up to the traffic
18 stop, I actually approached from the front of the traffic
19 stop. I nosed the front of my patrol vehicle up to the
20 front of the Defendant's vehicle. Deputy Whitfield's
21 vehicle was parked behind it and his blue lights
22 activated. Deputy Whitfield and Deputy Bannister already
23 had the Defendant, as well as the Defendant's girlfriend
24 and the Defendant's sister, standing outside the vehicle.
25 As I walked up, Deputy Whitfield advised me that they

1 were going to be conducting an inventory of the vehicle.
2 I observed the Defendant standing in handcuffs, I assume
3 for under arrest for the offense of driving under
4 suspension.

5 Q. And were you present when the car was inventoried?

6 A. Yes, sir, I was. I was standing at the front right
7 corner, right quarter panel of Deputy Whitfield's patrol
8 vehicle. And I was standing with the Defendant and the
9 other two occupants.

10 Q. And did you see Deputy Whitfield discover the
11 Pringles can?

12 A. Yes, sir, I did.

13 Q. And were you present when he opened it on the hood
14 of his patrol car?

15 A. Yes, sir, I was.

16 Q. And were you close enough where you could see what
17 was inside the Pringles can?

18 A. Yes, sir. A scale, a baggie with a small crystal
19 substance and some other baggies, plastic baggies and
20 other things.

21 Q. Were you present when Deputy Whitfield asked who was
22 going to claim ownership of the narcotics?

23 A. Yes, sir, I was.

24 Q. And what, if anything, did you hear or observe?

25 A. At first nobody spoke up and said anything. And

1 then the Defendant Todd started telling the female, who I
2 later found out it was his girlfriend, she needed to take
3 the hit. She needed to take the hit. His lawyer will
4 get her off of it.

5 Q. And what was her response?

6 A. She was upset. She started crying, you know. It
7 seemed like it took her some coaxing by the Defendant
8 before she would admit to ownership of it.

9 Q. Okay. And then Ms. Crisp, did she ever step up and
10 volunteer to take ownership of the narcotics?

11 A. No, sir, she did not.

12 Q. And did -- were you present when they were
13 mirandized?

14 A. Yes, sir, I was.

15 Q. And after the *Miranda* was given, did any of them
16 speak or claim ownership at that point in time?

17 A. No, sir. They all just asked to speak to their
18 attorney.

19 Q. I have nothing further. Please answer any questions
20 Mr. McElhannon may have.

21 A. Yes, sir.

22 CROSS-EXAMINATION

23 BY MR. MCELHANNON:

24 Q. Deputy Proner, so basically your testimony is
25 exactly what Mr. Whitfield's is?

1 A. That's correct.

2 Q. Exactly?

3 A. Close enough. I was standing in the same place, and
4 I saw the same and heard the same thing.

5 Q. Have y'all gotten together prior to this trial and
6 discussed the testimony?

7 A. We've all covered the bases to make sure everybody
8 was -- you know, still remembered everything and up to
9 date on everything.

10 Q. And you said it took some coaxing before Frances
11 Moore would take responsibility for the drugs?

12 A. It seemed as the Defendant needed to tell her to
13 take the hit before she claimed ownership.

14 Q. And would it be natural for someone just to come out
15 without being coaxed saying all those drugs are mine?

16 MR. CAMPBELL: I would object. Calls for
17 speculation.

18 THE COURT: Sustained.

19 Q. Do you know whether she took responsibility for the
20 drugs because my client told her to or because they were
21 her drugs?

22 A. I can't say, sir.

23 MR. MCELHANNON: Nothing further.

24 MR. CAMPBELL: Nothing further from this
25 witness.

1 THE COURT: Thank you, sir. You may step down.

2 All right. How long is your next witness going to
3 be?

4 MR. CAMPBELL: Your Honor, I think if we take a
5 break, we may be able to shorten it up just a little.

6 THE COURT: Okay.

7 Madam Forelady, ladies and gentlemen of the jury,
8 we're going to take the afternoon break. We'll be about
9 fifteen minutes. So if you'd just make yourself at home.
10 If you need anything, let the bailiff know and he'll get
11 it for you. Okay? Thank you.

12 (WHEREUPON, the jury exited the open court at
13 approximately 3:12 p.m.)

14 THE COURT: All right. We'll be in recess for
15 fifteen minutes.

16 (WHEREUPON, court stood at recess for a short
17 break.)

18 THE COURT: Mr. Campbell, are you ready to
19 proceed?

20 MR. CAMPBELL: Yes, Your Honor.

21 THE COURT: Mr. McElrath? McElrath, excuse me.
22 McElhannon? That was Freudian, I'm afraid.

23 Would you bring the jury in?

24 (WHEREUPON, the jury entered the open court at
25 approximately 3:33 p.m.)

1 THE COURT: Would you call your next witness,
2 please, sir?

3 MR. CAMPBELL: Your Honor, as for the officers
4 on the scene, I'm going to limit it to what we have
5 because the rest of them will be cumulative. I told this
6 to Mr. McElhannon, that it would be basically the same
7 type of testimony. So as a result, I'm going to go ahead
8 and move into the chain.

9 THE COURT: Okay.

10 MR. CAMPBELL: Your Honor, the State calls
11 Belinda Lee.

12 **BELINDA LEE,**

13 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

14 DIRECT EXAMINATION

15 BY MR. CAMPBELL:

16 Q. Ms. Lee, where are you employed?

17 A. Anderson County Sheriff's Office.

18 Q. And how long have you been employed at the Sheriff's
19 office?

20 A. Thirty years.

21 Q. And what is your position out there?

22 A. Evidence technician.

23 Q. Evidence technician?

24 A. Yeah. For four years.

25 Q. And you were that on May 10th or during last year?

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Belinda Lee - Direct Examination by Mr. Campbell

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1 A. Right.

2 Q. Ms. Lee, what is basically your job duty or job
3 description?

4 A. The evidence that's turned in by the officers, I log
5 it in. I enter it into the computer and store it in the
6 right places.

7 Q. And did you receive evidence in this case?

8 A. I did.

9 Q. And I'm going to show you what's been marked as
10 State's Exhibit 9 and 11. Did you receive these items?

11 A. Yes, sir. They are Best Kits, what we call Best
12 Kits.

13 Q. And were they completely sealed?

14 A. They were.

15 Q. Okay. And when you received these items, who did
16 you get them from?

17 A. We have what we call a drop box that the officers
18 leave the evidence in because they work around the clock
19 and we don't. And when I come in, I empty the drop box.
20 It's a locked box.

21 Q. And once items such as State's Exhibit 9 and 11 are
22 entered in the drop box, can the officer come back and
23 mess with the evidence or get with the evidence?

24 A. No.

25 Q. And when you receive the evidence, is it already

1 sealed?

2 A. Correct.

3 Q. If it's not sealed, what, if anything, do you do?

4 A. We locate the officer and have him to come and
5 reseal it and sign his initial that he's resealed the
6 evidence up.

7 Q. And typically in a case such as this, is the
8 evidence -- such as State's Exhibit 11, 9 and 11, is it
9 requested by the officer to be analyzed and tested?

10 A. Right.

11 Q. And was it done that -- was that done in this case?

12 A. It was.

13 Q. And did you take these items over to the
14 Anderson/Ocone Forensics Lab?

15 A. I did.

16 Q. And were they in the same condition as when you
17 received them from the evidence locker?

18 A. They were.

19 Q. If they had not been or had been changed or altered
20 any shape, way or form, would you have indicated that?

21 A. I would have.

22 Q. And were they?

23 A. Were they what?

24 Q. Were these items altered in any shape, way or form?

25 A. No. No more than being tested and repackaged back

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Belinda Lee - Cross-Examination by Mr. McElhannon

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1 up.

2 Q. By the chemist?

3 A. Right.

4 Q. Okay. And do you recall what days you dropped these
5 items off?

6 A. Yes. On May the 31st, 2012.

7 Q. Was that on the crystalized substance?

8 A. It was.

9 Q. What about the glass pipe?

10 A. The glass pipe was on November the 15th when it was
11 dropped off.

12 Q. And after you drop these items off at the lab, do
13 they stay in the custody of the lab until they've
14 finished testing?

15 A. Right.

16 Q. And you get them back in your possession?

17 A. I do.

18 Q. In this case, were these items returned to you?

19 A. They were.

20 MR. CAMPBELL: I have no further questions.

21 THE COURT: Cross-examination?

22 CROSS-EXAMINATION

23 BY MR. MCELHANNON:

24 Q. Ms. Lee, you said that the crystal substance, which
25 I think has already been testified to that it was

1 positive for meth, was dropped on the May 31st, 2012?

2 A. Yes.

3 Q. Was that when it was dropped into the drop box?

4 A. No, it wasn't. I let them -- collect them up and
5 take them all -- try to take them all at one time.

6 Instead of taking one every day, I let them collect up
7 and we take them all at one time.

8 Q. And do they go to Columbia to SLED to be analyzed?

9 A. They go to our forensic lab.

10 Q. The Anderson/Oconee ---

11 A. Down to the forensic lab, the lab that does the drug
12 testing.

13 Q. Here in Anderson?

14 A. Right.

15 Q. And the item that was -- I think had the glass pipe
16 in it, you said that was not dropped off until November
17 the 15th?

18 A. I guess we -- that was delivered on November the
19 15th. It had stayed back after I took the first one
20 over. And then I took it over at a later date. It was a
21 separate item.

22 Q. So all the evidence just didn't go over at the same
23 time?

24 A. No, it didn't.

25 Q. From May the 10th or 11th -- this incident occurred

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Todd Caron - Direct Examination by Mr. Campbell

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1 on May the 10th, 2012 -- to November 15th, 2012, when
2 that item was taken, where was it kept?

3 A. It was locked up in our drug vault.

4 Q. So it was actually dropped in the lock box at the
5 same time ---

6 A. It was.

7 Q. --- with the other evidence, but it just wasn't sent
8 for testing until later?

9 A. Right.

10 MR. MCELHANNON: That's all the questions I
11 have.

12 THE COURT: Okay. May this witness be excused?

13 MR. CAMPBELL: Yes, Your Honor.

14 THE COURT: Any objections?

15 MR. CAMPBELL: No objection.

16 THE COURT: Okay. Thank you, ma'am.

17 MR. CAMPBELL: Your Honor, the State calls Todd
18 Caron to the stand.

19 TODD CARON,

20 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

21 DIRECT EXAMINATION

22 BY MR. CAMPBELL:

23 Q. Mr. Caron, where are you employed?

24 A. Anderson County Sheriff's Office.

25 Q. How long have you been employed there?

1 A. Sixteen years.

2 Q. What is your capacity or position?

3 A. I am a sergeant over the evidence division.

4 Q. And what exactly is your job duties?

5 A. Oversee the safekeeping of evidence, property turned
6 into the Sheriff's office.

7 Q. And regarding this case, was the evidence in this
8 case maintained in the care, custody and control of
9 yourself or your technicians?

10 A. It was..

11 Q. And when evidence such as this is dropped off to
12 you, does anybody else have access where they can come in
13 and get to it?

14 A. There's only three people, four people that have
15 keys, myself, my direct supervisor, Lieutenant Chris
16 Scott, Ms. Lee and Pansey Allen.

17 Q. So even the Sheriff doesn't have access to the
18 evidence?

19 A. He has to knock to get in the building.

20 Q. And was these items -- in this case, you've seen
21 State's Exhibit 1 through 12. Have they been maintained
22 in your care, custody and control since May 10, 2012?

23 A. They have.

24 Q. Other than when they have been sent out for testing?

25 A. Correct.

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1 Q. And after they were tested, did you receive these
2 items back into your care, custody and control?

3 A. We did.

4 Q. And were these items maintained by you until you
5 brought them to court today?

6 A. That's correct.

7 MR. CAMPBELL: I have no further questions.

8 THE COURT: Cross-examination?

9 CROSS-EXAMINATION

10 BY MR. MCELHANNON:

11 Q. Sergeant Caron, did you do prints on these items,
12 some of these items?

13 A. I did. I processed some of the items for
14 fingerprints. Not the bags of the crystal substance.
15 They were at the lab. But as far as the Pringles can,
16 the scales, the baggies, yes, sir. And the glass pipe.

17 Q. I believe your report here says that you processed
18 one glass pipe, one digital scale, one Pringles can and
19 several plastic bags that were inside the Pringles can?

20 A. Yes, sir.

21 Q. And you actually performed the powder and ---

22 A. Yes, sir.

23 Q. --- and trying to get prints off ---

24 A. Yes, sir. Processed them for fingerprints using
25 fingerprint powder, yes, sir.

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Todd Caron - Redirect Examination by Mr. Campbell
Todd Caron - Recross Examination by Mr. McElhannon

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1 Q. And were you able to find any latent prints on any
2 of those items?

3 A. I was not.

4 MR. MCELHANNON: That's all the questions I
5 have.

6 MR. CAMPBELL: One question.

7 REDIRECT EXAMINATION

8 BY MR. CAMPBELL:

9 Q. Is that unusual, Detective Caron?

10 A. To not find fingerprints?

11 Q. Uh-huh (affirmative).

12 A. No, it is not unusual.

13 MR. CAMPBELL: No further questions.

14 MR. MCELHANNON: Just one.

15 RECROSS EXAMINATION

16 BY MR. MCELHANNON:

17 Q. Would it be unusual not to find prints on a piece --
18 were you -- would you agree that it's easy to put
19 fingerprints on a piece of glass?

20 A. Depending on how it was handled.

21 Q. So if a actual glass pipe was found in someone's
22 pocket, would it not have some smudges or some kind of
23 prints on it?

24 A. Being stuffed in someone's pocket, it's a good
25 possibility in the pocket and in being taken out of the

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1 pocket, the prints could be wiped off.

2 Q. Did you find any partial prints or anything on
3 anything on any of these items?

4 A. If I found any partial prints at all, I would have
5 pulled them.

6 MR. MCELHANNON: I have nothing further.

7 THE COURT: May he be excused?

8 MR. CAMPBELL: Yes, sir.

9 MR. MCELHANNON: No objection.

10 THE COURT: All right. Thank you, sir.

11 MR. CAMPBELL: Your Honor, the State calls
12 Meredith Lanford.

13 **MEREDITH LANFORD,**

14 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

15 DIRECT EXAMINATION

16 BY MR. CAMPBELL:

17 Q. Ms. Lanford, where are you employed?

18 A. I am employed with the Anderson/Oconee Regional
19 Forensics Laboratory.

20 Q. And what exactly is your job duties?

21 A. My main duty is to analyze evidence that's brought
22 to our laboratory for any suspected controlled
23 substances.

24 Q. And what is your position there?

25 A. I'm a forensic chemist.

1 Q. And how long have you been a forensic chemist?

2 A. I have been a forensic chemist for almost eight
3 years.

4 Q. Can you please tell the ladies and gentlemen of the
5 jury what type of training and experience you've had to
6 get to where you are right now?

7 A. I graduated from Clemson University with a
8 Bachelor's in Science Degree in Chemistry. I then went
9 on to complete the Forensics Science Certificate Program
10 at Greenville Technical College. I was trained and
11 certified as a forensic chemist with my former employer,
12 the Charleston Police Laboratory as well as with the
13 Anderson/Oconee Forensics Laboratory. I received
14 training from the Drug Enforcement Administration in the
15 area of forensic drug chemistry. I'm a member of the
16 American Chemical Society as well as the Clandestine
17 Laboratory Investigative Chemist. And every year we have
18 to complete and pass a proficiency test examination.

19 Q. And what type of illegal substances are you trained
20 in to test?

21 A. Everything from methamphetamine to prescription
22 drugs to cocaine and crack, any kind of -- anything
23 that's really a controlled substance.

24 Q. And do you know in your career -- and obviously
25 limit it to methamphetamines -- how many times you have

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Meredith Lanford - Direct Examination by Mr. Campbell

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1 tested methamphetamines?

2 A. Probably over two thousand times.

3 Q. And have you ever testified in court and been
4 qualified as an expert?

5 A. I have.

6 Q. How many times?

7 A. Twelve times.

8 MR. CAMPBELL: Your Honor, at this time, I move
9 to have Ms. Lanford qualified as an expert witness.

10 THE COURT: In what area, please, sir?

11 MR. CAMPBELL: Forensic analysis of narcotic
12 substances.

13 THE COURT: All right.

14 Mr. McElhannon, what's your position?

15 MR. MCELHANNON: No objection, Your Honor.

16 THE COURT: No objection?

17 All right. Madam Foreman, ladies and gentlemen of
18 the jury, normally witnesses are limited to testifying as
19 to what they see, they hear, they smell. Basically on
20 your senses. However, if someone's education or
21 experience gives them expertise in a particular area,
22 they're allowed to give an opinion in the area for which
23 they've been qualified.

24 In this case, Ms. Lanford has been stipulated to be
25 an expert in the area of forensic chemistry analysis, so

1 that means that she'll be allowed to give her opinion in
2 that area. Her testimony is just like any other
3 testimony in this trial. You may accept it. You may
4 reject it or you do with it what you think is proper.

5 Mr. Campbell?

6 Q. Ms. Lanford, in this case, did you have occasion to
7 analyze two items that were brought to you by Ms. Lee?

8 A. I did.

9 Q. I'm going to show you what's been marked as State's
10 Exhibit 9 and 11. And I'll let you take them one at a
11 time. If you could, please, ma'am, identify these items?

12 A. These are the items submitted from Belinda Lee at
13 the Anderson/Oconeel -- I'm sorry -- the Anderson
14 Sheriff's Office that contained a drug Best Kit.

15 Q. And when did you receive these items?

16 A. I received this particular item on May 31st, 2012,
17 that contains the two baggies. And then I received the
18 glass pipe on November 15th, 2012.

19 Q. And when you received it, were both items sealed?

20 A. They were.

21 Q. And can you please just tell the ladies and
22 gentlemen of the jury the process and procedure you go
23 through when you chemically analyze these items when you
24 receive them?

25 A. Yes. The first thing I do is remove the substance

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1 from any packaging. I take a weight of the substance,
2 and then I perform two screening tests to help me narrow
3 down what controlled substance may be present. And then
4 I perform two confirmatory tests on the instruments in
5 our laboratory to identify if a controlled substance is
6 present and what it is after it's found present.

7 Q. And when you say you weigh these items, are the
8 scales that you use, are they officially calibrated?

9 A. Yes, they are.

10 Q. And in this case you weighed the two -- looking at
11 State's Exhibit Number 9, did you weigh the two baggies
12 that were submitted to you?

13 A. I did.

14 Q. And what type of test did you perform and what type
15 of weight and what did you find?

16 A. On the first bag, I weighed -- the actual substance
17 weighed six point eight zero grams. And on the second
18 bag, the actual weight was zero point one four grams.

19 With both of these I performed -- the screening tests I
20 perform are a color test similar to what the officers do
21 on the road. And then, also, a -- the other screening
22 test is performed on one of our instruments. It's the
23 UV/Vis spectroscopy. And then I performed the two
24 confirmatory tests, one being infrared spectroscopy and
25 the other being gas chromatography/mass spectrometry.

1 Q. And in laymen's terms, what exactly are you doing?

2 A. Basically, like I said, the two screening tests just
3 help me to determine what kind of possible controlled
4 substance is there. And then the last two tests are
5 actual running of the sample against a library to confirm
6 the actual substance.

7 Q. And when you say library, are you referring to other
8 drugs that are similar to this?

9 A. Correct.

10 Q. And in this case, you did the test, performed the
11 test, on both these two baggies in State's Exhibit Number
12 9?

13 A. I did.

14 Q. And what was the official weight that you received
15 on both of those?

16 A. Do you want a total weight?

17 Q. Go ahead and give the total.

18 A. Okay. The total weight was six point nine four
19 grams.

20 Q. And when you did the weight, when you weigh it, do
21 you weigh it with a bag that it is -- that it comes in?

22 A. No, I do not. I remove all packaging.

23 Q. So it's pure substance that you're weighing?

24 A. Correct.

25 Q. And what type of narcotic did your test show?

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1 A. I found that the first item contained
2 methamphetamine and as well as the second bag also
3 contained methamphetamine.

4 Q. And did you perform the same type of analysis and
5 test on State's Exhibit Number 11, the glass pipe?

6 A. I did.

7 Q. And were you able to determine a weight regarding
8 any type of substance that may or may not have been found
9 inside this pipe?

10 A. I did.

11 Q. Okay. And what is the results of that?

12 A. The weight I found for the substance in the pipe was
13 zero point zero six grams.

14 Q. And what type of substance did you find?

15 A. Methamphetamine.

16 MR. CAMPBELL: Your Honor, that's all the
17 questions I have of this witness.

18 THE COURT: Cross-examination?

19 CROSS-EXAMINATION

20 BY MR. MCELHANNON:

21 Q. Ms. Lanford, the two baggies that you tested were
22 delivered to you on -- or you did this report on
23 September the 17th, 2012, or was that when it was
24 delivered to you? Do you have your report?

25 A. Yes, sir. The actual date of the -- that this

1 particular kit was submitted to the lab was May 31st,
2 2012.

3 Q. So September 17th is the date you actually performed
4 the analysis?

5 A. No. The -- September 17th, 2012, is the actual date
6 that this report was issued.

7 Q. Okay. And on that report, what -- what is the
8 incident date?

9 A. I have an incident date as May 10th, 2012.

10 Q. Okay. And do you see the three subjects' names
11 below that?

12 A. Yes, I do.

13 Q. And who are they?

14 A. I have a Christopher Lee Todd, Loretta Michelle
15 Crisp, and Frances Elizabeth Moore.

16 Q. Okay. And the incident date on that is May the 5th
17 -- I mean, 10th, 2012?

18 A. Yes, it is.

19 Q. Now, if you would go to the analysis report of the
20 glass pipe. And there again the date is November 27th,
21 2012?

22 A. Yes.

23 Q. Is that the day that you performed the analysis on
24 the pipe?

25 A. No. This is the date that the -- that this actual

1 report was issued.

2 Q. Okay. And I believe Ms. Lee testified that she sent
3 the pipe sometime in November for you to analyze; is that
4 correct?

5 A. Yes, sir.

6 Q. Okay. And if you'll go down to the incident date.
7 What does it say on that date for this incident?

8 A. This incident date says August 10, 2012.

9 Q. Is that consistent with the two baggies?

10 A. No, it is not. That would be a typo on my part.

11 Q. The same for each subjects that are listed on that
12 analysis?

13 A. Yes. Christopher Lee Todd, -Loretta Michelle Crisp
14 and Frances Elizabeth Moore.

15 Q. Okay. And in your experience of doing these tests,
16 is point oh six grams, which is what you say was in the
17 pipe, do you consider that, in your opinion, residue?

18 A. Actually, in this case, it was not residue. It had
19 -- what we consider residue is anything less than zero
20 point zero zero grams.

21 Q. Okay. So this was a little bit more than residue?

22 A. Correct.

23 Q. So this could have been someone that was actually
24 using ---

25 MR. CAMPBELL: Objection, Your Honor. That

1 calls for speculation on her part.

2 THE COURT: I'll sustain the objection.

3 MR. MCELHANNON: Nothing further, Your Honor.

4 MR. CAMPBELL: I have no further questions.

5 THE COURT: May this witness be excused?

6 MR. CAMPBELL: Yes, sir.

7 MR. MCELHANNON: No objection.

8 THE COURT: Thank you, ma'am.

9 MR. CAMPBELL: Your Honor, may we approach?

10 THE COURT: Yes, sir.

11 (WHEREUPON, a bench conference was held off the
12 record.)

13 THE COURT: All right. Madam Forelady, ladies
14 and gentlemen of the jury, the attorneys advise that they
15 have some logistical matters we need deal with for the
16 rest of the afternoon. So what I'm going to do is go
17 ahead and call a recess for the rest of today. I'm going
18 to ask that you be in your jury room at nine twenty-five
19 in the morning. Normally, we start at nine but we will
20 start at nine-thirty tomorrow. And we will start
21 promptly at nine-thirty.

22 Let me remind you, please, not to speak with anyone
23 about this case including spouses or one another. Okay?
24 But thank you for being here, and you're excused for the
25 evening.

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1 (WHEREUPON, the jury exited the open court at
2 approximately 3:58 p.m.)

3 THE COURT: All right. Anything further from
4 the State before we break for the day?

5 MR. CAMPBELL: Not on what we've done so far.
6 What I have -- I have State's Exhibit 7 and 8. Your
7 Honor, I would like to go downstairs and make a copy for
8 Mr. McElhannon so he can listen to them later. I've
9 listened -- as I told Your Honor at the bench that two of
10 them I've already listened to. I listened to some
11 yesterday. And we had to remove a few more items to, I
12 guess, make it where it wouldn't prejudice him with some
13 other issues that he had -- was involved in. And I think
14 it would be appropriate to allow time for Mr. McElhannon
15 to listen to them and make sure there's nothing else he
16 wants removed. So I would like to take 7 and 8 with me
17 to make copies for him.

18 THE COURT: Okay.

19 MR. CAMPBELL: I'll maintain them in my care,
20 custody and control. And then we'll take time to set up
21 in the morning. We'll have the machine set up.

22 THE COURT: And just for the record, those are
23 matters that have been previously made available to him;
24 it's just the redactions were what you were working on?

25 MR. MCELHANNON: That's correct, Your Honor.

1 Yes, sir.

2 THE COURT: Okay, certainly.

3 I assume you have no objection to him doing that?

4 MR. MCELHANNON: No objection. I trust Mr.
5 Campbell. But I would say that even if my copies are not
6 what's on there, I will then make an objection.

7 THE COURT: I understand that.

8 MR. CAMPBELL: He can stand there and watch it.
9 He's welcome to copy it.

10 THE COURT: All right. We'll see you guys
11 tomorrow morning at nine-thirty, and we'll resume the
12 trial.

13 (WHEREUPON, court stood at recess in this case.)

14 **January 8, 2013**

15 THE COURT: Guys, we have a note from juror
16 number 189 that she is sick with a fever. So I just
17 figured we'd just let her go, put the alternate on. Any
18 objection to that?

19 MR. MCELHANNON: No objection.

20 MR. CAMPBELL: No objection, Your Honor.

21 THE COURT: Very good. I tell you what. Any
22 problems going ahead and letting the Clerk let her go
23 instead of making her come out here?

24 MR. CAMPBELL: No.

25 MR. MCELHANNON: No.

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1 THE COURT: If you'll just ...

2 (WHEREUPON, Court's Exhibit Number 2 marked for
3 identification.)

4 THE COURT: All right. Anything from the
5 Defense before we get started?

6 MR. MCELHANNON: No, Your Honor.

7 THE COURT: From the State?

8 MR. CAMPBELL: No, Your Honor.

9 THE COURT: Are you ready to proceed?

10 MR. CAMPBELL: Yes, sir.

11 THE COURT: Are you ready to proceed?

12 MR. MCELHANNON: Yes, Your Honor.

13 (WHEREUPON, the jury entered the open court at
14 approximately 9:36 a.m.)

15 THE COURT: Did y'all have a nice evening? I
16 understand we had one of the jurors who's under the
17 weather today, so we have excused that juror.

18 And ma'am, you were once the alternate, and now I'm
19 going to move you over to the regular jury.

20 Is the State ready to proceed?

21 MR. CAMPBELL: Yes, Your Honor.

22 THE COURT: Is the Defense ready to proceed?

23 MR. MCELHANNON: Yes, Your Honor.

24 THE COURT: Will you call your next witness,
25 please, sir?

1 MR. CAMPBELL: Your Honor, the State calls Rob
2 Gebing to the stand.

3 (WHEREUPON, the witness was duly sworn.)

4 MR. CAMPBELL: Your Honor, can we approach just
5 real quickly?

6 THE COURT: Yes, sir.

7 (WHEREUPON, a bench conference was held off the
8 record.)

9 THE COURT: Ladies and gentlemen, Counsel
10 informs me that they're getting ready to put on some
11 audio or video type evidence. And there was concern as
12 to whether or not you would be able to hear it. So if
13 during the course of the trial, if it's not loud enough
14 for you to hear it or if it's distorted somehow, raise
15 your hand and we'll stop and try to make sure that you
16 can.

17 ROB GEBING,

18 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

19 DIRECT EXAMINATION

20 BY MR. CAMPBELL:

21 Q. Please state your name for the record.

22 A. My name is Robert M. Gebing, Jr., G-E-B-I-N-G.

23 Q. Mr. Gebing, you're employed at the Anderson County
24 Sheriff's Office?

25 A. I am.

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Rob Gebing - Direct Examination by Mr. Campbell

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1 Q. How long have you been employed in law enforcement?

2 A. I've been there eleven years plus, with the
3 Sheriff's office over eleven years. And before that, I
4 was a military police in the Army.

5 Q. Okay. And what exactly is your current position or
6 job duties at the Sheriff's office?

7 A. Currently, I'm a sergeant with the criminal
8 investigations division. I'm a supervisor.

9 Q. And were you asked by Deputy Whitfield to assist in
10 this case?

11 A. I was.

12 Q. And in what capacity did he ask you to help out?

13 A. He came and asked whether I still had access to the
14 jail phone call system. He wanted me to help him listen
15 in on some calls that Mr. Todd had been making.

16 Q. And do you routinely make it part of your practice
17 to listen in to inmate calls?

18 A. I do.

19 Q. And why do you do this?

20 A. Investigative purposes. A lot of times people say
21 something potentially incriminating as it relates to
22 their case.

23 Q. And did you listen in to phone calls in this case?

24 A. I have.

25 Q. Let me ask you this. Are inmates who are currently

1 incarcerated at the Anderson County Detention Center --
2 are they allowed to use cell phones inside the detention
3 center?

4 A. Cell phones in the detention center are contraband.
5 They're not allowed.

6 Q. So are inmates allowed to make phone calls?

7 A. They are using the provided phone system at the
8 jail.

9 Q. And can you please just tell the ladies and
10 gentlemen of the jury basically how an inmate goes about
11 making a phone call at the jail?

12 A. There are phones provided in the housing units in
13 the cells. All the phone calls go through a company
14 called Pay Tell Communications. It's kind of like a pre-
15 pay system where somebody has to pay into an account, and
16 then the inmate has to access the phone system using a
17 personal application number and then direct their call
18 from there. So it's all provided through the County.
19 It's specifically the jail.

20 Q. And are these phone calls being recorded?

21 A. They are.

22 Q. And are the inmates -- when they make a phone call,
23 are they informed that these phone calls are being
24 recorded?

25 A. They are. Twice during the initial startup of the

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1 call when the inmate initiates a call, they are told that
2 their call is being recorded and subject to monitoring.

3 And then when the recipient picks up, it also goes
4 through the same recording and says the same thing. And
5 then there's also a sign near phones in the jail.

6 Q. And how long has the jail used this system?

7 A. Three or four years. I'm not sure of the date, but
8 it's a good many years.

9 Q. And in this particular case dealing with Mr. Todd,
10 did you monitor some of his phone calls?

11 A. I did.

12 Q. And approximately how many phone calls do you think
13 you -- well, during the period that you were looking into
14 this case, how many phone calls did he approximately
15 make?

16 A. During his incarceration now, he's made two hundred
17 and eighty-three calls that are his own PIN. He's made
18 -- and this is an estimate -- probably forty more using
19 other people's PIN numbers. So he's up over three
20 hundred calls total during this current period of
21 incarceration.

22 Q. If you would please explain to them -- I don't know
23 if they probably understand. What do you mean by using a
24 PIN and other people's PIN number?

25 A. When somebody's booked in, they're given an inmate

1 I.D. number. Typically, when they make a call, they have
2 to enter that. And then when the call shows up in the
3 search system, it'll -- you can just search it by name.
4 You can search it by their PIN number. You can search it
5 by target number. But to make a call, you have to enter
6 a PIN number, either your's or somebody else's. The bulk
7 of his calls, he's used his own. But there have been
8 some instances where he's gotten somebody else to provide
9 his PIN number and then made calls to target numbers that
10 he desired.

11 Q. Is that a routine practice by inmates?

12 A. It's fairly common.

13 Q. And did you actually listen to all of these phone
14 calls?

15 A. No.

16 Q. And approximately how long are these phone calls?
17 How long -- how many minute-wise do they vary?

18 A. They have a time limit of about fifteen minutes. So
19 there's -- most of the calls, if they go the duration,
20 it'll be about a fifteen-minute total call. And there's
21 not a limit on how many calls they can make. So some
22 days they make two to three calls one right after the
23 other, so there's quite a few of them.

24 Q. And based on what you heard -- you didn't listen to
25 all of them, but you listened to some of them. Did you

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1 actually copy these?

2 A. Yes.

3 Q. And you provided those to the State; is that right?

4 A. Well, I've copied some of them. I didn't copy all
5 them. Some of them weren't terribly relevant. But the
6 ones that I felt had some sort of potential evidentiary
7 value, I was able to save to my hard drive and I turned
8 it over to the Solicitor's office for review.

9 Q. And these phone calls, how were you able to
10 ascertain that they were actually Mr. Todd?

11 A. Again, a person either has to enter a PIN number or
12 a target number. The system allows you to search by
13 inmate name, inmate I.D. number. Or if you're not sure
14 they're using somebody else's name, you can search it by
15 the number they called. So if I wanted to search Mr.
16 Todd's father's phone number, for example, I can just
17 enter that phone number and it will come up with every
18 inmate who had called that number during the specified
19 time period. There's several different ways that you can
20 go about it.

21 Q. And I'm going to show you what's been marked as
22 State's Exhibit 7 and 8. Please identify what these are,
23 sir.

24 A. These are computer C.D.s of some of the recorded
25 phone calls that have been offered to the Solicitor's

1 office for review.

2 Q. And these are recordings that you made off the jail
3 system?

4 A. Yes.

5 Q. And do these recordings fairly and accurately
6 represent what -- the phone calls that Mr. Todd made on
7 the dates these correspond to?

8 A. They do.

9 Q. And of all the phone calls, did you narrow it down
10 just to a couple of calls that you felt were relevant for
11 this case?

12 A. As of yesterday, I got fifty-eight calls saved to my
13 hard drive which, again, that I thought might have some
14 sort of relevance. And then I'm not even sure how many I
15 turned over for review. And then we've narrowed that
16 down even further to the ones that were most compelling
17 and most relevant to this case. So I've got -- there's
18 several of them out there, but these are the ones that
19 seemed to illustrate our point.

20 MR. CAMPBELL: Your Honor, at this time -- I
21 know we've already agreed that all of these items are
22 entered into evidence. But at this time, I want to go
23 ahead and start publishing these to the jury if that's
24 okay.

25 THE COURT: All right. Go right ahead.

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1 (WHEREUPON, a portion of State's Exhibit Number 7
2 was published to the jury.)

3 Q. Detective Gebing, you listened to these phone calls
4 prior to providing them to the Solicitor's office; is
5 that correct?

6 A. I did.

7 Q. Regarding this case here on May -- or phone call of
8 May 24, 2012, who is the person who he is speaking to,
9 Frances, that you learned?

10 A. Frances Elizabeth Moore. She was a co-defendant in
11 this particular case. She was also his girlfriend at the
12 time, and they have a child in common.

13 Q. And who is the Michelle that she referred to in this
14 case?

15 A. Loretta Michelle Crisp, his sister, who additionally
16 is a co-defendant in this case.

17 Q. And what was in this call that especially interested
18 you enough to save it for and to bring it to my
19 attention?

20 MR. MCELHANNON: Your Honor, if I could object.
21 I think the call itself speaks for itself. If he's going
22 to inject speculation, my objection is on speculation
23 about what the call was about. I think the call speaks
24 for itself. It's the best evidence.

25 THE COURT: I note your objection. Overruled.

1 Go ahead.

2 A. What compelled me to save and bring this call to
3 your attention, again, is the direct conversation that
4 the two of them had regarding this charge, his insistence
5 that, take the charge. Not just take the charge, but
6 take it from me. In my opinion -- and again, that's open
7 to interpretation -- just the wording of that was wrong.
8 If it was, why don't you own up and take your own drug,
9 he could have said anything else. But it's, why don't
10 you take that charge for me. Her resistance to it, the
11 fact that she gets upset and she's pleading with him,
12 don't make me do this. You know, if you care for me at
13 all, why can't Michelle do it? If it was her drugs, why
14 is Michelle doing it even an option? So those were the
15 things that were going through my mind when I heard that.
16 And that's what made it compelling to me, and that's why
17 I brought it to your attention.

18 Q. I'm going to play -- did you make two more
19 recordings for this court hearing?

20 A. I have.

21 MR. CAMPBELL: At this time, we're going to
22 play State's Exhibit Number 8. For the record, the first
23 tape, the first phone call was played off of State's
24 Exhibit Number 7. We're now going to State's Exhibit
25 Number 8.

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1 (WHEREUPON, State's Exhibit Number 8 was published
2 to the jury.)

3 MR. CAMPBELL: Your Honor, at this time, we're
4 going to play the last call. There was another call on
5 State's Exhibit Number 7.

6 (WHEREUPON, a portion of State's Exhibit Number 7
7 published to the jury.)

8 Q. Detective Gebing, based on what you've heard, is
9 this the person who's making the calls identifies
10 themselves as Little Chris. Were you able to determine
11 that's actually Chris Todd who's sitting in the courtroom
12 today?

13 A. Through a number of factors, yes.

14 Q. How did you do that?

15 A. Little Chris is his nickname. And those that I know
16 who know him refer to him as that. Additionally, these
17 two calls in particular, he used his actual PIN Number.
18 The target number was registered to his father, Ray
19 Human, of 3507 Woodview Drive in Anderson. And then I'm
20 familiar with both his and Frances' voices. So taken as
21 a whole, that's why I could determine that.

22 Q. Okay. What is Mr. Human's full name?

23 A. Paul Raymond.

24 Q. And based on these last two phone calls, what of
25 those two phone calls interested you enough to feel they

1 were directly relevant to this case?

2 A. They were one right after the other. This first of
3 the two that you just heard, again, what brought that to
4 my attention, what was really compelling about that, was
5 him wanting her to know what he told the lawyers so she
6 could, you know, have that in her mind. He even at one
7 point comments, I'm telling you what to say.

8 The second call is just a continuation of it, but a
9 little more in-depth where, in my opinion, he was
10 coaching or questioning her, making sure she knew what to
11 say. And at some points, he even corrected her, you
12 know, when he was asking, where were we going. And she
13 answers. He actually stops and corrects her. That's
14 what was so particularly compelling about these. And
15 that's why those are two of the calls that I brought to
16 your attention.

17 MR. CAMPBELL: I have no further questions of
18 this witness.

19 Thank you, Deputy. Please answer any questions Mr.
20 McElhannon may have.

21 THE WITNESS: Yes, sir.

22 THE COURT: Before you do, Mr. McElhannon,
23 let's take about a five-minute break this morning.

24 Madam Forelady, we're going to take about a five-
25 minute break. If you need additional time, just let us

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1 know.

2 (WHEREUPON, the jury exited the open court at
3 approximately 10:34 a.m.)

4 THE COURT: Mr. McElhannon, are you ready to
5 proceed?

6 MR. MCELHANNON: Yes, Your Honor.

7 THE COURT: Mr. Campbell?

8 MR. CAMPBELL: Yes, Your Honor.

9 THE COURT: Very good.

10 THE BAILIFF: Are you ready to bring in the
11 jury, sir?

12 THE COURT: Yes, sir, you can bring them in.

13 (WHEREUPON, the jury entered the open court at
14 approximately 10:47 a.m.)

15 THE COURT: Mr. McElhannon, you may proceed.

16 MR. MCELHANNON: I have no questions of Mr.
17 Gebing, Your Honor.

18 THE COURT: All right. Mr. Gebing, you may
19 step down.

20 THE WITNESS: Thank you, Your Honor.

21 THE COURT: Would you call your next witness?

22 MR. CAMPBELL: May we approach, Your Honor?

23 THE COURT: Yes, sir.

24 (WHEREUPON, a bench conference was held off the
25 record.)

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Defense Motions at End of State's Case

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1 MR. CAMPBELL: Your Honor, that's the State's
2 case. We rest.

3 THE COURT: Okay.

4 Madam Forelady, ladies and gentlemen of the jury,
5 the State has indicated that they have presented the
6 evidence that it intends to present in its case-in-chief.
7 At this point, I have certain administrative matters I
8 need to attend to. I know we just took a quick break,
9 but go ahead and let's have a morning break. We're going
10 to be a little while, and then we'll bring you back in
11 here for further proceedings.

12 If you would take the jury back to the jury room.

13 Do you need anything back there?

14 MADAM FORELADY: No. We're fine.

15 THE COURT: Thank you. If you'd go back to
16 your jury room.

17 (WHEREUPON, the jury exited the open court at
18 approximately 10:48 a.m.)

19 THE COURT: All right. Mr. McElhannon?

20 MR. MCELHANNON: May it please the Court, Your
21 Honor. At this time, I would like to make a motion for a
22 directed verdict based on the fact that I don't believe
23 the evidence substantiates the charge of P.W.I.D. meth
24 against Mr. Todd. The testimony of the officers were
25 that another third party or Ms. Frances Moore admitted

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Defendant Given Fifth Amendment Rights

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1 that the drugs in the trunk of this vehicle were hers.
2 And she admitted that on the scene. I don't believe
3 these telephone calls that were just played actually
4 showed Mr. Todd coaching her in any way. I believe it
5 showed him wanting her to make sure that she knew what
6 the truth of the matter was and she needed to come
7 forward and get him out of this because he shouldn't have
8 been there in the first place. So I would like to make
9 that motion.

10 THE COURT: All right. I'm going to deny your
11 motion. You know, looking at the evidence, that there's
12 -- the Court doesn't weigh the evidence, just looks for
13 the existence of evidence. And I find there is evidence
14 in the record from which a jury may find the Defendant is
15 guilty of P.W.I.D. meth. And therefore, I'm going to
16 deny the motion.

17 All right. At this stage, Mr. Todd, would you
18 please stand and raise your right hand?

19 (WHEREUPON, the Defendant was duly sworn.)

20 THE COURT: All right. Mr. Todd, at this point
21 I'm going to explain to you certain of your rights. If
22 you do not understand anything I tell you, please let me
23 know. Okay? If you want me to explain anything in
24 further detail, I'll be glad to try to do so.

25 But we've reached that point in the trial where you

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1 have a right to present a defense. You have a right also
2 to claim the protections provided to you by the Fifth
3 Amendment of the United States Constitution which in part
4 provides as follows. No person shall be compelled in any
5 criminal case to be a witness against himself. Number
6 one, have these rights been explained to you?

7 THE DEFENDANT: Do I ---

8 THE COURT: Have your Fifth Amendment rights
9 been explained to you?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: Do you understand them?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: I need you to speak up, please,
14 sir.

15 THE DEFENDANT: Yes, sir, I understand them.

16 THE COURT: Okay. What that means, Mr. Todd,
17 is you can't be required by your attorney, by me, by
18 anyone to take the stand in this case. On the same vein,
19 you have a right to testify in your own defense if you
20 desire. But that is a personal right and only you can
21 decide whether or not you want to exercise the right to
22 testify or the right not to testify. Do you understand?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: Okay. Now, if you decide you are
25 going to testify in this matter, you'll be subject to the

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1 same direct and cross-examination as any other witness
2 who may come before this Court and testify. Do you
3 understand that?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: Also, you could be cross-examined
6 on any matter that would be relevant to this case. If
7 you have a record of crimes involving false statement or
8 dishonesty or a conviction where you could be sentenced
9 to more than a year and I find that the probative value
10 of those convictions outweighs the prejudicial impact on
11 your case, then you could be cross-examined by the State
12 on the existence of those convictions. Do you understand
13 that?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: And the obvious reason is they
16 would want to impeach your credibility. Do you
17 understand?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: Now, if you decide that you are
20 going to testify in this case, you have to make that
21 decision on your own, freely, voluntarily and
22 understanding your rights under the Fifth Amendment to
23 the United States Constitution. Do you understand that?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: Okay. Now, I'll allow you time to

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1 speak with Mr. McElhannon, family members or someone else
2 if you want to speak with them about whether or not you
3 should take the stand and testify. But ultimately the
4 decision on whether or not to testify will be up to you.
5 Do you understand?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: Now, if you decide that you do not
8 want to testify and you want to exercise your Fifth
9 Amendment right, in just a few minutes when I charge the
10 jury on the law, I will tell them that they may not
11 discuss or consider the fact that you did not testify
12 whatsoever because that is your Constitutional right and
13 that the burden of proof remains on the State at all
14 times. Do you understand that?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: Have you understood all that I've
17 gone over with you thus far?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: Do you have any questions of me?

20 THE DEFENDANT: No, sir.

21 THE COURT: Do you have any questions of Mr.
22 McElhannon?

23 THE DEFENDANT: No, sir.

24 THE COURT: Would you like additional time to
25 consult with anybody about whether or not you want to

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1 testify?

2 THE DEFENDANT: No, sir.

3 THE COURT: Do you wish to testify in this
4 case?

5 THE DEFENDANT: No, sir.

6 THE COURT: You do not?

7 THE DEFENDANT: (Shook head side to side in the
8 negative.)

9 THE COURT: Okay. Very well. Mr. McElhannon,
10 do you have any other witnesses you intend to call in
11 this case?

12 MR. MCELHANNON: I don't believe we're going to
13 present a defense, Your Honor, any witnesses.

14 THE COURT: Is that your understanding, Mr.
15 Todd?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: Is that your desire?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: Sir?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: Okay. So you will receive the last
22 argument?

23 MR. MCELHANNON: Yes, sir. Thank you.

24 THE COURT: I don't think you presented any
25 evidence in this case, have you?

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Charge Conference

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1 MR. MCELHANNON: No, Your Honor.

2 THE COURT: All right. You have copies -- have
3 you had a chance to look at the proposed charge?

4 MR. MCELHANNON: I have, Your Honor.

5 THE COURT: Do you have any objection as to the
6 substantive law on P.W.I.D. or simple possession?

7 MR. MCELHANNON: No, Your Honor.

8 THE COURT: Mr. Campbell, have you had a chance
9 to look at the proposed charge on the substantive law?

10 MR. CAMPBELL: I have.

11 THE COURT: Any objections?

12 MR. CAMPBELL: No, Your Honor.

13 THE COURT: All right. Let me go over, just
14 for the record -- and I know I've been with both of you
15 guys before. But my basic charge that in-between -- I
16 give my charge in three parts. The first part is the
17 duties that define and control the jurors' duties as
18 jurors. The second part would be the law of possession
19 with intent to distribute and simple possession. And the
20 third aspect would be considerations about their
21 deliberations. And I go into the first part and I tell
22 them they have to make their decision based on the
23 evidence presented and from no other, and they shouldn't
24 award or be influenced by any persons or likes, dislikes,
25 opinions and prejudice one way or the other. And they

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1 have to listen to all of my instructions, follow all of
2 my instructions. They can't ignore the ones that they
3 don't like and apply the ones they like. And if I've
4 done anything that suggests which way they're supposed to
5 rule, they're to disregard that. I explain to them what
6 the evidence is in this case. And that would simply be
7 the testimony and the exhibits. I don't think there's
8 any stipulations other than jurisdiction, right?

9 MR. MCELHANNON: That's correct.

10 THE COURT: Okay. And tell them what is not
11 evidence. I describe for them direct and circumstantial
12 evidence. I go over the credibility of the witnesses
13 with them. In making their determination of the findings
14 of fact, tell them about expert testimony. Again, tell
15 them that the indictment is not evidence of guilt or
16 doesn't raise an inference or presumption of guilt. I
17 charge on the presumption of innocence, reasonable doubt,
18 intent. In this case, intent would be certainly relevant
19 in the charge. And again, I charge them on the failure
20 of the Defendant to testify. Then I go next to
21 substantive arguments you have and then the duty to
22 deliberate and that they're not advocates for one side or
23 the other, but they're the judges of the facts, et
24 cetera, et cetera. And I have these here if you want to
25 look at them. But it's kind of the same thing you've

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1 heard over and over.

2 Now, let me ask you this. I'm more than glad to go
3 ahead and charge on the law and let you argue or let you
4 argue and then me charge on the law, the old fashioned
5 way. Do you have a feeling which way you want to go, Mr.
6 McElhannon?

7 MR. MCELHANNON: Your Honor, I believe -- it's
8 worked before. I believe I'd rather you charge them
9 before closing.

10 THE COURT: Okay. Any problem with that?

11 MR. CAMPBELL: No, Your Honor.

12 THE COURT: All right. I had my clerk fix the
13 verdict form. The verdict form will be this. You can
14 look at it and see ...

15 Y'all just go ahead and just be at ease. And when
16 he gets that back, we'll start up. And you are agreeable
17 to me going ahead and charging first?

18 MR. CAMPBELL: That's fine. We've done it
19 before.

20 THE COURT: Very good. We'll be in recess for
21 a few minutes.

22 (WHEREUPON, court stood at recess for a short
23 break.)

24 THE COURT: All right. Is the State ready to
25 proceed?

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1 MR. CAMPBELL: Yes, Your Honor.

2 THE COURT: Is the Defense ready to proceed?

3 MR. MCELHANNON: Yes, Your Honor.

4 THE COURT: All right. Bring in the jury.

5 (WHEREUPON, the jury entered the open court at
6 approximately 11:11 a.m.)

7 CHARGE

8 BY THE COURT:

9 Okay. Ladies and gentlemen, if you will recall at
10 the beginning of this case, I told you there's five
11 phases in every case. You had the opening statements;
12 you had the presentation of the evidence. We have ended
13 the presentation phase of the evidence

14 What I've done with these attorneys, we're swapping
15 the order around a little bit. I am going to next charge
16 you on the law. Then the lawyers will give you their
17 closing statements and then we'll send you back and go
18 over a few things and then tell you that you may begin
19 your deliberations, just so you know.

20 So this will be the charge on the law that you must
21 apply to the case. It will be in three phases, three
22 parts. I'm going to give you a break after the first
23 part, and so you'll be able to pay a little bit more
24 attention to what I'm telling you. But now that you've
25 heard all the testimony and the evidence that's been

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1 presented in this case, it is your duty to listen to the
2 law as I give it to you. The first part will be the
3 general rules that define and control your duties as
4 jurors. Okay?

5 Now, if at any time you don't understand what I'm
6 telling you or you don't hear it, raise your hand because
7 it's important that you do understand what I tell you.
8 But as I told you at the beginning of this case, you are
9 to find the facts from the evidence ---

10 MR. CAMPBELL: Your Honor, may I approach? I
11 apologize.

12 THE COURT: Yes, sir.

13 (WHEREUPON, a bench conference was held off the
14 record.)

15 THE COURT: I try cases with these attorneys
16 all of the time, and they correct me when I make a
17 mistake, which is probably more often than it should be.
18 But with that being said, let me continue.

19 It is your duty to find the facts from the evidence
20 that you present -- that's been presented to you in this
21 case. To those facts as you find them to be, you must
22 apply the law as I give it to you. You must follow the
23 law as I give it to you. You shall not be concerned with
24 what you think it should be or what you wish it should
25 be. You must apply the law as I give it to you.

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1 Also, in making your findings of fact, you must not
2 be influenced by any personal likes or dislikes,
3 opinions, prejudice or undue sympathy that you may have
4 for one side or the other. That means that you must
5 decide this case solely on the evidence that's been
6 presented here in this courtroom and according to the law
7 as I give it to you now. And if you will recall, at the
8 beginning of this case, you took an oath where you swore
9 or affirmed that you would do just that.

10 Now, also, as I told you, our state Constitution
11 does not allow any judge to have an opinion on the facts.
12 Therefore, if I've done anything throughout the course of
13 this trial that seems to indicate to you which way I
14 would prefer you to find the facts, I'm going to ask you
15 and also instruct you to disregard that. I can assure
16 you I have no opinion one way or the other. As I told
17 you, my job is to instruct the jury on the law and make
18 sure that the proceedings are followed in a fair and
19 unbiased basis.

20 The facts are entirely up to you as you find them to
21 be. You and you alone are the judges of what the facts
22 are. And you decide what the facts are by evaluating and
23 weighing the evidence that you heard here in this
24 courtroom during the trial.

25 Now, you can't evaluate and weigh evidence from a

1 scale. This is in the literal sense. This is a
2 figurative term, and you use your good mental judgment,
3 common sense and logic in weighing and evaluating the
4 evidence and coming up to what you find to be the facts
5 in this case.

6 Now, sometimes this needs to be said, and so it's
7 going to be a little bit simplistic. But what is
8 evidence? Evidence is the sworn testimony that you
9 heard, whether it is on direct examination or cross-
10 examination, in this case regardless of whoever called
11 the witness. Also, any exhibits that I've allowed to be
12 admitted into evidence is also evidence. And that is the
13 only evidence that you may consider as evidence.

14 Now, what is not evidence? What these attorneys
15 have told you in their opening statements, anything that
16 they've said during the course of this trial and what
17 they're about to tell you in their closing statements is
18 not evidence. Now, and it's not to disregard it or
19 discount it. It is not sworn testimony. They've not
20 been put on the stand and subjected to cross-examination
21 and direct examination. What they tell you is designed
22 to help you understand their positions and what the
23 issues are in this case. But if what they tell you
24 differs from what your memory of the facts are, your
25 memory will control.

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1 Also, I told you that there in every case will be
2 objections. And this case was no different. The fact
3 that there was an objection and my ruling on that
4 objection shall not be considered by you or even
5 discussed by you in your deliberations. That is simply
6 part of the process of every single court case that we
7 have. Finally, anything that you may have heard or seen
8 during breaks or overnight is not evidence. Only the
9 testimony and exhibits received here in this courtroom is
10 evidence under the meaning of the term, the legal meaning
11 of the term evidence.

12 Now, in South Carolina, we have two types of
13 evidence we recognize. We have direct evidence, and we
14 have circumstantial evidence. Direct evidence is pretty
15 much what it says it is, but I'm going to give you a
16 definition. It is testimony of a person who asserts or
17 claims to have actual and direct knowledge of a fact such
18 as an eyewitness.

19 Now, circumstantial evidence is a little more
20 tricky. But it is just as recognized in the state as any
21 other type of evidence. Circumstantial evidence is this.
22 It is proof of a chain of facts and circumstances from
23 which you can find that another fact exists although that
24 fact has not been proven directly.

25 Now, if I have not confused you on that, let me give

1 you an example. If each of you were to go to bed at
2 night and you were to have a fresh layer of snow in your
3 front yard and you were to wake up in the morning and you
4 were to see tracks in that snow, you may reasonably infer
5 that someone or something walked through your yard during
6 the night although you did not actually see the person or
7 thing walk through your yard. That is circumstantial
8 evidence.

9 Now, the only limitation on circumstantial evidence
10 is that the inference that you draw from that evidence
11 cannot be surmise or conjecture or speculation. You need
12 -- it needs to lead to the inference with reasonable
13 certainty. But I'll tell you this. The law makes
14 absolutely no distinction between the weight or the value
15 that you, the jury, may give either to direct or
16 circumstantial evidence. You're entitled to consider
17 both. You're entitled to reject both. And there's not a
18 greater degree of certainty required for circumstantial
19 evidence to be considered by you.

20 And again, the only limitation is you cannot have an
21 inference that's based on speculation or surmise. But
22 after considering all the evidence, if you are not
23 convinced of the guilt of this Defendant beyond a
24 reasonable doubt, then it will be your job and duty to
25 find him not guilty.

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1 In deciding what the facts are in any case, it will
2 be necessary for you, the jury, to determine the
3 credibility of the witnesses. In doing this, you have to
4 decide which testimony that you want to believe and which
5 testimony you wish not to believe. You have the right to
6 disbelieve all or part of any testimony that's been
7 presented. You also have a right to believe all the
8 testimony that's been presented.

9 In making this decision or this determination of
10 credibility of the witnesses, you may, but you're not
11 required, to take into account a number of factors. And
12 let me give those factors to you. You may ask
13 yourselves, was the witness able to see or hear or know
14 the things about which the witness testified? How well
15 was the witness able to recall and describe the things
16 about which they testified? What was the witness' manner
17 or what we call their demeanor while they're on the
18 stand? You may ask yourself was there some reason that a
19 person would want to give testimony that would help or
20 hurt one side or the other. Did that witness have an
21 interest in the outcome of the case or any bias
22 concerning any party or matter involved in the case? You
23 can ask yourself how reasonable was that witness'
24 testimony in light of all of the evidence that's been
25 presented and whether that witness' testimony was

1 contradicted by what that witness had said or done at
2 another time or by the other evidence or testimony
3 presented in the case.

4 Now, ladies and gentlemen, those are just some of
5 the factors that you may consider in determining witness
6 testimony. One thing you don't do as jurors is check
7 your good common sense at the door when you're sworn in,
8 and you shouldn't in this case. You should use your
9 common sense in determining what things that in your day-
10 to-day lives you find indicative of truthfulness or
11 indicative of lack of truthfulness in determining what
12 the credibility of the witnesses are. But one thing you
13 don't do is add up the number of witnesses that may
14 testify for one side or the other in making this
15 determination of credibility. It doesn't matter where
16 the truth comes from, whether it be on direct examination
17 or cross-examination or some other part. Your sole
18 objective is to try to find the truth from the evidence
19 and testimony presented here in the courtroom.

20 Now, ladies and gentlemen, there has been testimony
21 presented by a person who has been qualified as an
22 expert. As I told you, normally witnesses are limited in
23 their testimony to what they saw, they heard, they
24 smelled or basically your senses. However, a person who,
25 because of their education or experience, has become

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1 qualified as an expert in the field, they have a right to
2 give an opinion about matters in that field. And they
3 can then state their reasons for that opinion.

4 As I told you earlier, expert testimony should be
5 judged just like any other testimony in this case. You
6 may accept it. You may reject it. You may give it as
7 much weight as you think it deserves based on the basis
8 for the testimony and the other evidence presented in
9 this case.

10 Also the fact -- ladies and gentlemen, I'm going to
11 remind you that the fact that Mr. Todd was indicted, that
12 he was arrested and charged is not evidence of guilt. It
13 does not lead to a presumption of his guilt. It does not
14 lead to an inference of his guilt. The fact of the
15 indictment is simply a mechanism by which our State
16 brings defendants before a jury such as yourselves for a
17 determination of whether or not they are guilty or
18 innocent based on the evidence presented.

19 In fact, this Defendant has said that, I'm not
20 guilty, to the indictment in this case. That means that
21 the burden is on the State of South Carolina to prove him
22 guilty beyond a reasonable doubt.

23 I will tell you and charge you that a person charged
24 with committing a criminal offense in this State is never
25 required to prove himself or herself innocent. It is an

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1 important rule in criminal law that no matter what the
2 seriousness of the charge may be, a defendant will always
3 be presumed innocent of the crime for which they have
4 been indicted unless guilt has been proven by evidence
5 satisfying you of their guilt by proof beyond a
6 reasonable doubt.

7 Now, this presumption does not end when you begin
8 your deliberations, but it accompanies the Defendant
9 throughout this trial until you, the jury, unanimously
10 find a verdict of guilt based on evidence satisfying you
11 of guilt beyond a reasonable doubt.

12 It has been said in the law that the presumption of
13 innocence is like a robe of righteousness that's been
14 placed upon the shoulders of the Defendant where it
15 remains in place until it has been stripped from his
16 shoulders by evidence satisfying you, the jury, of guilt
17 beyond a reasonable doubt.

18 Now, I will tell you further that this presumption
19 is not just a mere legal phrase. It is not just a legal
20 theory. It is a substantial right to which every
21 defendant is entitled until you, the jury, find guilt
22 beyond a reasonable doubt.

23 So that leads us to what is a reasonable doubt. And
24 I gave you a short version of it at the beginning of this
25 trial. And I'm going to charge you on reasonable doubt

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1 one more time. A reasonable doubt is the kind of doubt
2 that would cause a reasonable, sincere, honest and
3 conscientious person to hesitate to act in an important
4 matter in their own affairs. Proof beyond a reasonable
5 doubt is proof that leaves you firmly convinced of the
6 Defendant's guilt.

7 Now, there are very few things in this world that we
8 know with absolute certainty. And in criminal cases, the
9 law does not require proof that overcomes every possible
10 doubt. If, based on your consideration of the evidence,
11 you are firmly convinced that the Defendant is guilty of
12 the crime charged, you must find the Defendant guilty.
13 On the other hand, if you think there is a reasonable
14 possibility that the Defendant is not guilty, you must
15 give the Defendant the benefit of the doubt and find him
16 not guilty.

17 A reasonable doubt may arise from the evidence or
18 from the lack of evidence. And I instruct you further
19 that a defendant is entitled to every reasonable doubt
20 that may arise in the case. What that simply means is
21 this, that if, upon any issue that is essential to a
22 conviction and a verdict of guilty of the offense for
23 which the Defendant has been charged, if you have any
24 reasonable doubt as to how that issue should be resolved,
25 it is your duty to find in favor of the Defendant.

1 Now, in order to establish criminal liability,
2 criminal intent is required to be established. For
3 example, the mental state required to be proven by the
4 State for a particular crime might be purpose, intent,
5 knowledge, recklessness or criminal negligence.

6 Criminal intent must be proven by the State beyond a
7 reasonable doubt. Criminal intent is always a matter
8 that must be determined by you, the jury, from the
9 circumstances surrounding the situation.

10 Now, there's no way to prove intent to a
11 mathematical certainty. And there's no way science can
12 dissect a person's brain to determine what they had in
13 mind. So the law says that criminal intent may be
14 inferred from the circumstances shown to have existed.
15 And that is how you make the determination of whether the
16 element requiring intent was present. It's not necessary
17 to establish intent by direct or positive evidence, but
18 intent may be established by inference in the same way as
19 any other fact by taking into consideration the acts of
20 the parties and all the circumstances of the case.

21 Criminal intent is a mental state, a conscious
22 wrong-doing. Now, ladies and gentlemen, it's up to you
23 to determine what the Defendant intended to do based on
24 the circumstances shown to have existed in this case.

25 Now, finally, ladies and gentlemen, I'll instruct

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1 you, and I'll emphasize, that the fact that the Defendant
2 did not testify is not and shall not be a factor that you
3 may consider in your deliberations. Each citizen of the
4 United States is entitled to protections afforded them by
5 the Fifth Amendment. And it will be improper and wrong
6 for you to consider or even raise the issue of the
7 failure of the Defendant to testify in this matter.

8 All right. Ladies and gentlemen, those are the
9 general rules that define and control your duties as
10 jurors.

11 Madam Forelady, I probably have about ten more
12 minutes. Would you like to stand up and move around for
13 a second, or would you like for me to go ahead and
14 proceed?

15 MADAM FORELADY: You can proceed.

16 THE COURT: Thank you very much. I thought you
17 might say that.

18 Okay. Ladies and gentlemen, this is the substantive
19 law on possession with intent to distribute
20 methamphetamine.

21 The Defendant is charged with possession with intent
22 to distribute methamphetamine. The State must prove
23 beyond a reasonable doubt that the Defendant possessed
24 methamphetamine with the intent to distribute it. To
25 prove possession, the State must prove beyond a

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1 reasonable doubt that the Defendant had both the power
2 and the intent to control the disposition or use of the
3 methamphetamine.

4 Possession may either be actual or constructive.

5 Actual possession means that the methamphetamine was in
6 the actual physical custody of the Defendant.

7 Constructive possession means that the Defendant had
8 dominion and control or the right to exercise dominion or
9 control over either the methamphetamine itself or the
10 property on which the methamphetamine was found.

11 Mere presence at the scene where the drugs were
12 found is not enough to prove possession. Actual
13 knowledge of the presence of the methamphetamine is
14 strong evidence of the Defendant's intent to control its
15 disposition or use. The Defendant's knowledge and
16 possession may be inferred when a substance is found on
17 the property under the Defendant's control. However,
18 this inference is simply an evidentiary fact to be taken
19 into consideration by you along with the other evidence
20 in this case and to be given the weight you decide it
21 should have.

22 Two or more persons may have joint possession of a
23 drug.

24 The State must also prove beyond a reasonable doubt
25 that the Defendant intended to distribute the

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1 methamphetamine. Distribute means to deliver other than
2 by administering or dispensing a drug. Intent may be
3 shown by acts and conduct of the Defendant and other
4 circumstances from which you may naturally and reasonably
5 infer intent.

6 In determining whether the Defendant had the intent
7 to distribute the methamphetamine, you may consider the
8 circumstances surrounding the Defendant's alleged
9 possession.

10 You may consider the amount of the substance alleged
11 to have been possessed, the manner in which it was
12 allegedly possessed, the place where it was allegedly
13 possessed and other factors which you consider to be
14 important. You must find that the Defendant did not
15 intend to have the methamphetamine solely for his own
16 use.

17 Possession of more than one or more grams of
18 methamphetamine creates an inference that the Defendant
19 possessed the methamphetamine with intent to distribute
20 it. This inference does not relieve the State from
21 proving beyond a reasonable doubt that the Defendant had
22 the intent to distribute. It is simply an evidentiary
23 fact to be taken into consideration by you, along with
24 all the other evidence and to be given the weight you
25 decide it should have.

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1 Now, ladies and gentlemen, if in your deliberations
2 you find that the State has failed to prove beyond a
3 reasonable doubt that the Defendant is guilty of
4 possession with intent to distribute methamphetamine, you
5 may, but you're not required, to consider whether the
6 State has proved beyond a reasonable doubt that the
7 Defendant is guilty of simple possession of
8 methamphetamine.

9 Simple possession does not require an intent to
10 distribute the methamphetamine. The State must prove
11 beyond a reasonable doubt that the Defendant knowingly or
12 intentionally possessed methamphetamine. Knowingly means
13 with knowledge, consciously and not accidentally.
14 Intentionally means willfully intending the result which
15 actually occurs, not accidentally or involuntarily.

16 Intent may be shown by acts and conduct of the
17 Defendant and other circumstances from which you may
18 naturally and reasonably infer intent.

19 Now, ladies and gentlemen, that is the substantive
20 law that you must apply to the charges in this case. And
21 that leads me to the final part of my charge to you. And
22 that is something about your deliberations.

23 Now, in preparing my charge, I looked up the
24 definition of deliberation. And this is the definition.
25 It is a careful consideration, weighing up with a view to

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1 a decision. And I will submit to you regardless of what
2 you may think about our system that the genius of our
3 jury system is that it allows twelve men and women like
4 you from different walks of life, from different
5 perspectives and life experiences to sit through the
6 trial, to listen to the law charged by the Court and to
7 consider the evidence amongst yourselves and to
8 ultimately reach a verdict in the case.

9 Now, we call them deliberations for a reason. You
10 are to consider all the evidence, and you are to discuss
11 it thoroughly and carefully with your fellow jurors and
12 to discuss it in a calm, thorough and a courteous manner.

13 Remember, you are finders of the fact. You're not
14 advocates. You're not partisans for one side or the
15 other. Your sole interest in this matter is to determine
16 the truth based on the evidence that has been presented
17 here in the courtroom.

18 I'm going to ask you and I'm also going to charge
19 you to listen to all the views of your fellow jurors,
20 consider their points and their points of view. Talk
21 through and discuss the evidence thoroughly. And
22 remember if you're doing something deliberately, you're
23 not in a big hurry. And you should not be in this case.

24 This case is important to both the State and to this
25 Defendant. And this is their only day that they'll have

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1 in Court.

2 Now, in order for your verdict to be -- to stand or
3 to be valid, it must be unanimous. With that being said,
4 each of you must decide this case for yourself, but you
5 should do so only after you have impartially considered
6 all the evidence, after you have fully and fairly
7 discussed all other peoples' points of view and their
8 perspectives and listened to everyone's opinions. Don't
9 be afraid to change your opinion if the conversation
10 convinces you that it is the right thing to do. On the
11 other hand, do not change your opinion simply to appease
12 your fellow jurors so that your verdict will be
13 unanimous. Again, in order for your verdict to stand,
14 all twelve must agree on the verdict.

15 Now, Madam Forelady, you will, in just a little
16 while, after closing statements, be sent back the
17 evidence and the verdict form. And these will be the
18 options that the jury has. On the verdict form, they
19 have to be in some order, and so the order in which they
20 appear is of no consequence. Okay?

21 The first option would be that, we, the jury, under
22 indictment 2012-GS-04-1859 unanimously find that the
23 Defendant, Christopher L. Todd, is -- the first option
24 would be not guilty of drugs, possession of
25 methamphetamine with intent to distribute. Or you have

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1 the second option, guilty of drugs, possession of
2 methamphetamine with intent to distribute. If your
3 option is one of these, then you'll check the appropriate
4 line next to the option and go forward.

5 Now, if you find that the State has failed to prove
6 that the Defendant is guilty of possession of
7 methamphetamine with intent to distribute, you may -- and
8 I've underlined may on this verdict form -- but you're
9 not required to consider whether or not he's guilty of
10 simple possession of methamphetamine. In that regard,
11 your options would be that the Defendant is not guilty of
12 simple possession of methamphetamine or guilty of simple
13 possession of methamphetamine. The only prohibition is
14 that you cannot find that the Defendant is guilty of
15 possession with intent to distribute and guilty of simple
16 possession. Okay?

17 Once you have made your unanimous decision, I'm
18 going to ask that you sign the verdict form, you knock on
19 the door, and we'll receive your verdict back here in
20 open court.

21 Now, if during your deliberations the jury needs
22 anything or they have any questions whatsoever, if you
23 would do like you've done before when you selected
24 yourself as the foreperson or the jury selected you as
25 the foreperson, write the question down, sign it, knock

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1 on the door. One of the bailiffs will bring it to us and
2 we'll receive it here in the courtroom. Okay?

3 Now, we're getting ready to have closing statements,
4 but I'm going to send you to your jury room for a quick
5 minute to make sure I have not misstated the law or not
6 stated something I should have. If you need anything or
7 need additional time, let us know. But you'll hardly
8 have a chance to sit down before we bring you back.

9 Okay?

10 Thank you.

11 (WHEREUPON, the jury exited the open court at
12 approximately 11:41 a.m.)

13 THE COURT: All right. Any additions or
14 exceptions from the Defense?

15 MR. MCELHANNON: No, Your Honor.

16 THE COURT: From the State?

17 MR. CAMPBELL: No, Your Honor.

18 THE COURT: All right. Y'all, let's take about
19 a five-minute and let y'all get ready and then we'll go
20 forward. Thank you, guys. We'll be in recess for about
21 five minutes.

22 (WHEREUPON, court stood at recess for a short
23 break.)

24 THE COURT: Mr. McElhannon, Mr. Campbell
25 correctly pointed out to me when I began my charge that I

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1 had not allowed you to rest on the record. And so I know
2 that you advised that you do not intend to call any
3 witnesses.

4 MR. MCELHANNON: Correct.

5 THE COURT: But if you want to officially rest
6 on the record?

7 MR. MCELHANNON: The Defense rests, Your Honor.

8 THE COURT: Thank you, sir.

9 MR. CAMPBELL: We're ready.

10 THE COURT: You're ready?

11 Mr. McElhannon, are you ready?

12 MR. MCELHANNON: Yes, sir.

13 THE COURT: All right. The State goes first
14 and Mr. McElhannon goes last.

15 MR. CAMPBELL: Correct.

16 THE COURT: Ready?

17 MR. CAMPBELL: Ready.

18 THE COURT: Would you bring the jury in,
19 please, sir?

20 (WHEREUPON, the jury entered the open court at
21 approximately 11:50 a.m.)

22 THE COURT: Mr. Campbell, is the State ready to
23 proceed?

24 MR. CAMPBELL: The State's ready, Your Honor.

25 THE COURT: Is the Defense ready to proceed?

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1 MR. MCELHANNON: Yes, sir, Your Honor.

2 THE COURT: Mr. Campbell.

3 MR. CAMPBELL: May it please the Court.

4 THE COURT: Yes, sir.

5 CLOSING ARGUMENT

6 BY MR. CAMPBELL:

7 Ladies and gentlemen of the jury, when I started out
8 yesterday morning, I told you about the truth. In this
9 case, the truth will either set you free or get you
10 convicted. And that's what we're here today about.

11 We're here to determine what is the truth of this case.

12 Y'all have been chosen to decide whose drugs those
13 were. There's three people in the car. We acknowledge
14 that. And as Mr. McElhannon said in his opening -- now,
15 we agree there was a traffic stop. We agree there was
16 drugs found. The whole question that y'all must decide
17 is whose dope was that. And we acknowledge that Ms.
18 Frances Moore, his girlfriend, the mother of his child,
19 said on the side of the road, hey, it's mine. But we
20 don't exactly believe that it's hers.

21 And I'm going to go through why we say that Mr.
22 Chris Todd is guilty of possession with intent to
23 distribute methamphetamines. More than just simple
24 possession. He had simple possession just in the pipe
25 itself in his pocket. I'm not worried about that. What

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1 he is guilty of is possession with intent to distribute.

2 Now, why is he the one the State feels should be
3 held accountable? There are numerous reasons, and I'm
4 going to go through them. First of all, you're looking
5 at a car that was rented that day. That car was rented
6 to Paul Human. As the Detective stated on the stand,
7 that's his daddy. His full name is Paul Ray Human. It's
8 the same address that he lives at, 3507 Woodview Drive.
9 He lives there. He's driving the car. He has control
10 over the car.

11 He doesn't really care about the law. He's out
12 there driving under suspension. That doesn't phase him.
13 He's got dope in his pocket with a glass pipe. That
14 doesn't phase him.

15 But yet when they're stopped, what is the one thing
16 that turns? The officer finds this Pringles can in the
17 back of the trunk. And when he picks it up, he feels it,
18 something rattles. What rattles? A set of digital
19 scales. What's the purpose of having digital scales if
20 this is for your own personal consumption? The purpose
21 is to weigh out to sell. As the chemist said, he had six
22 point nine four grams in the two baggies that was found
23 in here.

24 And I know there's no fingerprints. As the officer
25 said, very rarely do we ever get fingerprints. But you

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1 already know he's got methamphetamines on him in his
2 pocket.

3 Now, think about it. Does Frances have anything on
4 her? She has nothing. His sister, Michelle Crisp,
5 sitting in the back, she's got needles that can be used
6 for taking drugs. Frances is the logical choice to pin
7 this on. And that's what he does on the scene. Why is
8 it all of a sudden he's so insistent at the scene, at the
9 roadside itself, you've got to take this, you have got to
10 take the hit? Why is he so concerned about that?

11 And what is her response, as the officer stated?
12 She starts breaking down. She starts crying. There's
13 two reasons why she's doing this. One is, the truth is,
14 the meth is hers and she just got caught red-handed. But
15 the more logical theory is that he is forcing her to take
16 possession and ownership of something that she knows
17 doesn't belong to her. He is forcing it upon her. And
18 she's scared.

19 You heard in those tapes, she is terrified of taking
20 this charge for him. She's scared. And she knows the
21 consequences. Her kids are the consequences, and she
22 realizes that. All for him. And she says, I love you.

23 And you can tell how he treats her on those tapes.
24 Why is he so insistent at the scene? Why is he so
25 insistent on those phone calls if the dope wasn't his to

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1 begin with? He's got baggies; he's got scales. He's got
2 the product, meth. That and the fact that the weight is
3 over a gram, as the Judge stated, is an inference that he
4 possessed this with intent to distribute. This isn't
5 personal consumption. This is for him to get rid of to
6 other people. This is distribution.

7 Now, those tapes, you know, the best thing -- piece
8 of evidence that we have, mr. Todd himself. His own
9 words. You got to hear in those tapes who Christopher
10 Lee Todd is, who he is as a person. You got to hear it.
11 Not as he sits there. You got to hear his voice and his
12 demeanor, how he treats Frances.

13 And what does he say? When he gets her on that
14 phone, what's the first stuff he starts going into? He
15 starts talking about this. You have to take this charge
16 for me. That phrase in and of itself -- it's about nine
17 minutes in on that first tape -- is very damning. And
18 the reason why it is -- that phrase, take this charge for
19 me -- you break it down.

20 Take. What does the word take imply? Take implies
21 first you don't have it and you must get it from
22 somewhere else. In other words, he wants her to take the
23 drugs for him. And the definition for -- or the phrase,
24 for me. If this was actually truly Frances' dope, this
25 was her meth, don't you think there would have been a

1 different phrase? He would have told her, this is your
2 dope, you need to take it, not -- he kept reiterating
3 over and over and being insistent, I love you, take this
4 charge for me. You're going to take this charge? I love
5 you, hey -- now, I won't go into exactly how he says it.
6 But for me. For me means because he knew that was his.
7 He knew that was his. He had ownership of it. He had
8 possession of it.

9 And the funny thing is on those tapes is why does he
10 have to walk her through her story if it was hers to
11 begin with. He tells her where they went, what they did,
12 who they saw, where they were going and what items they
13 had. Why would she have to know this and why did she
14 have to rehearse it and go over it with him if it was
15 hers to begin with, because she would already know this?
16 He's trying to get her story straight because he wants
17 out of this charge. He says, I can't get out of this
18 unless you go take this charge for me.

19 What's her response? She starts breaking down
20 crying. I'm scared. She's scared for her kids. And
21 she's straight up with him. You don't care for me. You
22 don't care for your child. You don't care for anybody,
23 especially -- the only person you're looking out for is
24 yourself.

25 And she asked him, why can't Michelle take the

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1 charge? The other person in the car. Why can't she do
2 it? Wait a second. Oh, well, she said she wasn't going
3 to do it. So that leaves her. And you could hear it in
4 her voice. He controls her, manipulates her. He tells
5 her what to do. She's dependent upon him. You can tell
6 who wears the pants in that relationship.

7 And I know we only played three phone calls. I
8 think the detective testified there was approximately
9 three hundred phone calls at about fifteen minutes a
10 shot. You do the math. That's about seventy-five
11 straight hours worth of phone calls. We brought you just
12 a snapshot of what we thought was the best to really show
13 what his intentions were and how he really is and what
14 was going on.

15 And basically, he wants her to get her story
16 straight to alibi -- it's kind of like alibiing the meth,
17 where the meth's been. He's trying to say, I didn't have
18 possession of it. And did Chris know this? No, he
19 didn't know anything about it. Okay.

20 Ladies and gentlemen, this is more than possession.
21 Possession is just what he had in the amount in his glass
22 pipe in his pocket. This is about the weight of
23 distribution. You don't have baggies and scales. You
24 don't have the product on you. You don't have that much
25 weight. As the Court will tell you, that is a inference

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1 that he possessed this with intent to distribute. This
2 isn't a personal consumption case. And we don't have to
3 prove he did a hand-to-hand, no. It's the weight itself
4 and what -- the items that go with it that prove that he
5 held this with intent to distribute.

6 Now, ladies and gentlemen, when we started this
7 trial, he sat there cloaked in innocence. And as the
8 State puts up our case, we slowly chip away that layer.
9 Each witness adds something. Each piece of evidence adds
10 something. And you can see this is what -- this is what
11 was found at the scene right here. You've got the
12 product, the dope. You've got the digital scales.
13 You've got the baggies that you break it down into after
14 you weigh it. All of that goes to distribution.

15 And as he sat there yesterday cloaked in innocence
16 -- and we agree with that, that we had the burden to
17 prove to y'all beyond a reasonable doubt that this is his
18 and he possessed it. We've chipped away at that. We
19 have removed that innocence.

20 Mr. McElhannon said yesterday that -- let me back
21 that up. One of the things that you have to decide and
22 this all comes down to is that you must determine the
23 verdict that speaks the truth. You have the last word in
24 this case. I don't have it.

25 Mr. McElhannon, when he gets up here, is going to

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1 tell you his version of events and why he thinks he's not
2 guilty of possession with intent to distribute. But the
3 people who have the last word is you. You are the judges
4 of the facts. You heard the evidence. You heard the
5 testimony. It is your decision and your decision alone
6 to render a verdict that speaks the truth and that
7 justice demands.

8 I agreed with Mr. McElhannon yesterday when he said
9 this is an important day. This is an important day for
10 Mr. Todd, but it's also an important day for the State.
11 Those people who deal in illegal narcotics,
12 methamphetamines, should be held accountable. And that's
13 what this is about, accountability.

14 Ladies and gentlemen, when you go back in that jury
15 room to deliberate and you come back with a verdict, we
16 ask that that verdict holds him accountable for the
17 narcotics, the illegal methamphetamines, found in that
18 car on the night of May 10th, 2012. And I thank you.

19 THE COURT: Mr. McElhannon?

20 MR. MCELHANNON: Thank you. May it please the
21 Court.

22 Mr. Campbell.

23 THE COURT: Yes, sir.

24 CLOSING ARGUMENT

25 BY MR. MCELHANNON:

1 Q. Ladies and gentlemen, I first just want to thank
2 y'all for being attentive here in these two days. I know
3 sometimes this process is drawn out with the experts and
4 the chain of custody and all that. It seems like you
5 don't need it, but you really do.

6 My client Christopher Lee Todd also appreciates what
7 y'all have done. You've listened. We've been watching.
8 We think y'all have been very attentive during this
9 trial.

10 I told you yesterday, and I apologize, I'm losing my
11 voice a little bit. But I told you yesterday that this
12 case hinged on reasonable doubt. And it still does. And
13 the reason I say that is because there were three people
14 in this car. And I'm basically going to end up going
15 over what Mr. Campbell said in his closing just then.
16 Three people charged. The only person on scene that
17 admitted the drugs were hers was Frances Moore. She did
18 not do that until the cannister, the Pringles can was
19 opened and the drugs were dumped out on the trunk. Well,
20 certainly, Mr. Todd at that point is going to start -- I
21 don't think they say he went crazy. But he was like,
22 you've got to take this. This isn't my dope. Frances,
23 you need to admit this is yours. And she did.

24 Now, what does she do after they Mirandize her?
25 Well, at that point, she says, well, I don't want to talk

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1 anymore. I want to talk to a lawyer, which is her right,
2 which is every citizens right not to speak and
3 incriminate themselves. But she had already done it by
4 admitting that the drugs were hers on the scene.

5 Reasonable doubt. There again, you hear the officer
6 testify as far as fingerprints go, well, we fingerprint
7 stuff but we don't hardly ever get fingerprints. I've
8 been an assistant solicitor. And I know that you do get
9 fingerprints when you print things. There were no
10 fingerprints, no latent prints on any item of evidence
11 that they took. I don't believe that. Now, I don't know
12 why there weren't, but there should have been some kind
13 of latent prints on some of that evidence. And it sure
14 would have been nice if we had latent prints on the
15 Pringles can because it would have told you who last had
16 that Pringles can in their possession. But conveniently,
17 there are no prints. There again though, reasonable
18 doubt. That's reasonable doubt.

19 Now, these telephone calls that were made, they
20 played three of them. And they would like for you -- I
21 believe they would like for you to believe just by
22 telling you that the volume of calls was three hundred
23 calls over -- I don't know how many months that was. But
24 that ever single one of these calls Christopher Lee Todd
25 was coaching Frances Moore on what to say. I think

1 that's what Mr. Campbell basically just said, that they
2 picked the three best to play for y'all, but that three
3 hundred calls were made and it was seventy-five hours or
4 whatever. There again, that's just trying to pile on
5 because they know there's reasonable doubt in the State's
6 case.

7 Now, to me, listening to those telephone calls,
8 Frances Moore sounded like a scared girl who didn't want
9 to lose her children by telling the truth. I didn't hear
10 her say, I'm not going to take this charge because I
11 didn't -- the dope wasn't mine. I never heard her say
12 that. She never said, Christopher or Chris, the drugs
13 weren't mine, so I'm not going to admit to them. She
14 never said that. She just said, I'm scared. I don't
15 want to lose my kids. And if you plead guilty to a drug
16 charge, then chances are you're going to lose your kids
17 to D.S.S. or whomever.

18 But I did not hear her at any point say, the dope
19 was not mine, on any of those calls. As a matter of
20 fact, on the one call, on the last one that was played,
21 she basically said that everything that she put in the
22 trunk was hers including the Pringles box. She called it
23 a box. But that it was seven grams of meth, which I
24 think the testimony was six point nine two. So that was
25 right on it. And then that it was her dope. Again, on

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1 there she testified that it was her dope. Again -- and I
2 didn't hear on any of those calls, I didn't hear
3 Christopher Todd coaching her about weight or anything of
4 that nature. I never heard his voice on those tapes say
5 there was six point nine two grams of meth in there or
6 seven grams. That was Frances Moore that said that.

7 Ladies and gentlemen, all of these things taken
8 together are reasonable doubt. Reasonable doubt that
9 Christopher Todd even knew that that dope was in the
10 trunk of that car. He was driving that car. It was a
11 rental car. But Frances Moore, on that tape, says she
12 put all of that stuff in the back because they were going
13 to Christopher Todd's trailer to move some stuff in. So
14 that all is reasonable doubt.

15 Now, as far as the P.W.I.D. -- and I shortened that
16 up. That's possession with intent to distribute
17 methamphetamine. It's just easier to say P.W.I.D. --
18 versus a simple possession, there was enough weight for
19 P.W.I.D., six point nine two. You have to have more than
20 a gram. We concede that. But six point nine two grams
21 is not a lot of weight as far as drugs go.

22 There was a glass pipe in the car. There were
23 needles. I'm going to submit to you that this meth was
24 for personal use. Just because Frances Moore didn't have
25 drug paraphernalia on her as far as a pipe or the needles

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1 weren't sitting beside her does not mean that she is not
2 a meth user and that those drugs were meant for her too.
3 You have to deliberate and decide whether you think that
4 the people who were ever in that car -- and there again,
5 we don't know whose dope that was, except for Frances',
6 whether she was going to sell it or whether it was
7 personal use. But if you have two means of ingesting
8 meth, by a pipe or needles, to me that shows that someone
9 was intending to use that meth for personal use and not
10 sell it.

11 So ladies and gentlemen, I again thank you as well
12 as my client for your attention in this. But I believe
13 that when you come down to it -- and you have that duty
14 to find not guilty if you believe there's a reasonable
15 doubt -- I believe this case is replete with reasonable
16 doubt against Christopher Lee Todd when you have one
17 person, one out of three, who's admitted that the drugs
18 were hers. And I think you'll find that verdict. Thank
19 you.

20 THE COURT: All right. Madam Forelady, ladies
21 and gentlemen of the jury, I'm going to send you back to
22 your jury room right now. I'm going to make sure that we
23 don't have any other issues that we need to clear up
24 before we let you begin your deliberations. But in just
25 a few minutes, you'll receive this verdict form and all

1 the exhibits that have been admitted into evidence and
2 word from the bailiff to begin your deliberations. Until
3 then, do not talk about the case, please, still.

4 And let me forewarn you that those are drugs into
5 evidence. It's been stipulated that it's
6 methamphetamines. So if you want some gloves to handle
7 it, we'll be glad to provide those for you. But I just
8 wanted to let you know instead of handling it with your
9 bare hands. Okay?

10 Would you take the jury back to the jury room,
11 please?

12 (WHEREUPON, the jury exited the open court at
13 approximately 12:10 p.m.)

14 THE COURT: Any additions or exceptions from
15 the State?

16 MR. CAMPBELL: No, Your Honor. Just one point.
17 I think the drugs are sealed.

18 THE COURT: They are? Okay.

19 MR. MCELHANNON: No exceptions, Your Honor.

20 THE COURT: All right. I'm going to give y'all
21 the verdict form.

22 I told the clerk probably around twelve thirty to go
23 in and say, let's take a lunch order because it will take
24 about an hour.

25 Is that's okay?

1 MR. MCELHANNON: I looked at it. It was fine.

2 THE COURT: Let me say this to the lawyers now
3 that we've finished. Regardless of the outcome, I
4 appreciate both of you being prepared and ready to go.
5 It's always a pleasure trying a case with both of you.
6 Thank you very much.

7 Would you tell them to go ahead and begin?

8 (WHEREUPON, a bench conference was held off the
9 record.)

10 THE COURT: All right. We'll be in recess.

11 (WHEREUPON, the verdict form and exhibits were
12 delivered to the jury to begin their deliberations
13 after which court stood at recess awaiting the
14 verdict of the jury at approximately 12:12 p.m.)

15 THE COURT: Okay. My understanding is we have
16 a verdict. Are you ready to proceed?

17 MR. CAMPBELL: Yes, Your Honor.

18 THE COURT: Is the Defense ready?

19 MR. MCELHANNON: Yes, Your Honor.

20 THE COURT: Would you bring the jury in?

21 (WHEREUPON, the jury entered the open court at
22 approximately 12:52 p.m.)

23 THE COURT: Madam Forelady, my understanding is
24 the jury's reached a verdict; is that correct?

25 MADAM FORELADY: It is.

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1 THE COURT: And is it unanimous?

2 MADAM FORELADY: It is.

3 THE COURT: Would you pass it to the bailiff,
4 please, ma'am?

5 (WHEREUPON, a document was handed up to the Court.)

6 THE COURT: All right. And would you publish
7 the verdict, please?

8 THE CLERK: May it please the Court.

9 THE COURT: Yes, sir.

10 THE CLERK: This is in the Court of General
11 Sessions in the State of South Carolina, the County of
12 Anderson. In the case of the State of South Carolina
13 versus Christopher L. Todd, Defendant, this is the
14 verdict form. We, the jury, under indictment number
15 2012-GS-04-01859 unanimously find that the Defendant
16 Christopher L. Todd is guilty of drugs, possession of
17 methamphetamine with intent to distribute. And that is
18 signed by the foreperson in Anderson, South Carolina.

19 THE COURT: Very good.

20 Ladies and Gentlemen of the jury, was that your
21 verdict in the jury room, and is that your verdict now?
22 If so, raise your right hand.

23 (WHEREUPON, all jurors' hands were raised.)

24 THE COURT: Let the record reflect that all
25 twelve jurors raised their right hand. Very good.

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1 Mr. Todd, we'll be with you in just a few minutes.

2 Let me just say a word of thanks to you, not for
3 your verdict because the Court is never concerned about
4 what your verdict is. But we are concerned that the
5 process is followed and that you stay engaged during the
6 part of that process. And I've watched you watched you
7 variously through the trial, and you have stayed engaged.
8 And for that, we appreciate your doing your civic duty.

9 I'd like to be able to tell you that you're done for
10 the rest of the week, and very likely may be. But I'm
11 going to ask that you call back tonight after six
12 o'clock. And there will be a voice recording as to
13 whether or not we need you to come back for the further
14 trials potentially this week.

15 Before I excuse you, I'm going to ask you to go back
16 to your jury room. And I need, Madam Forelady, for you
17 to sign some paperwork for me. And I need to just go
18 over a couple of things with you if I may.

19 If you'd take the jury back to the jury room.

20 (WHEREUPON, the jury exited the open court at
21 approximately 12:55 p.m.)

22 (WHEREUPON, court stood at recess for a short
23 break.)

24 THE COURT: All right. Would you come around,
25 please, sir? Now, let me just tell you this for the

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1 record. Mr. Todd, whatever sentence I impose, you'll
2 have ten days to appeal.

3 MR. CAMPBELL: Your Honor, I'll hand up the
4 sentence sheet.

5 THE COURT: Let me -- we had some pre-trial
6 discussions as to the suspendability of a third offense.
7 If I can get my trusty law clerk to get that statute back
8 up for me. There you go. Looking at this, Mr. Campbell,
9 it says, notwithstanding any other provision of law, a
10 person convicted and sentenced pursuant to this
11 subsection for a third or subsequent offense in which all
12 prior offenses were for possession of a controlled
13 substance, outlined in subsection A, that they may have a
14 sentence suspended and probation granted and be eligible
15 for parole, supervised furlough, community supervision,
16 et cetera, et cetera. Would the priors fit under that?

17 MR. CAMPBELL: Your Honor, this will be
18 actually his fourth drug conviction. Two of them are for
19 possession with intent to distribute, P.W.I.D. meth.
20 He's actually on probation at this time for a sentence
21 you gave him back in February 7th of last year for
22 P.W.I.D.

23 THE COURT: I gave it to him?

24 MR. CAMPBELL: Yes, sir.

25 THE COURT: Okay.

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1 MR. CAMPBELL: And I'll go through his record
2 at the appropriate time when you're ready.

3 THE COURT: I want to hear that.

4 I want to hear a little bit about Mr. Todd, please.

5 MR. MCELHANNON: May it please the Court, Your
6 Honor. Mr. Todd is twenty-four years old. He has a
7 young daughter, I believe two, almost three. And as
8 stated in the testimony at the trial, Frances Moore is
9 the child's mother. Mr. Todd and Ms. Moore are not
10 married. However, they do basically reside together.
11 But his daughter, of course, is going to miss him for
12 whatever period of time that you impose upon him, Your
13 Honor.

14 I would like to say as far as sentencing goes, Your
15 Honor, that initially -- and this has already been
16 discussed and put on the record. Initially, there was an
17 offer of ten years from the State to plea to a P.W.I.D.
18 second offense. That was rejected. Yesterday Your
19 Honor, on the record, indicated that there would be a
20 sentence in the range -- if he pled in the range of
21 twelve to fifteen years if he pled to a P.W.I.D. third.

22 THE COURT: But that I was inclined in that
23 range without being held to it?

24 MR. MCELHANNON: Yes, sir.

25 THE COURT: Right.

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1 MR. MCELHANNON: And that was also rejected.

2 What I would ask Your Honor -- and I don't believe Your

3 Honor would do this anyway -- is hold my client's

4 Constitutional right to a jury trial in any way against

5 him as far as sentencing goes. I understand you would

6 not, and that's what I would ask. I also would ask that

7 just due to the fact that he does have a young daughter

8 and he's still a young man, twenty-four years old, that

9 you be as lenient as possible on him to try to give him

10 some kind of life when he comes out.

11 THE COURT: Let me ask you this. Mr. Todd ---

12 THE DEFENDANT: Yes, sir.

13 THE COURT: I need you to speak louder, please,

14 sir.

15 THE DEFENDANT: Yes, sir.

16 THE COURT: When's the last time that you held

17 a job where you worked full-time with taxes withheld or

18 reported for a period of a year or more?

19 THE DEFENDANT: I can't recall, sir. I had a

20 job when I was out this time, but it wasn't no -- it was

21 tax free. I was painting motorcycles and stuff.

22 THE COURT: How far did you go in school?

23 THE DEFENDANT: I got my G.E.D.

24 THE COURT: How far did you go in school?

25 THE DEFENDANT: Eleventh grade, sir.

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1 THE COURT: Eleventh grade?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: Did you get your G.E.D. in prison?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: How long were you out of prison
6 before you picked up these charges?

7 THE DEFENDANT: I was out approximately -- I
8 was out at the county approximately three months.

9 THE COURT: So how long were you out of the
10 county at the time that you picked up these new charges?

11 THE DEFENDANT: Approximately three months.

12 THE COURT: Oh, okay. I misunderstood. All
13 right. So is it fair to say, Mr. Todd, that you've never
14 held any gainful employment where you were a contributor
15 to society at all?

16 THE DEFENDANT: I don't understand, sir.

17 THE COURT: Well, you told me that you did have
18 a job before you went to jail this time, but you were
19 getting paid under the table ---

20 THE DEFENDANT: Yes, sir.

21 THE COURT: --- for allegedly painting
22 motorcycles or something along those lines. I asked you
23 earlier whether you've ever held a job where they
24 reported taxes or withheld taxes and held that job for a
25 period of a year or more. And you said, no.

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1 THE DEFENDANT: Yes, sir.

2 THE COURT: And so what I gather from that is
3 that you've really never done anything to contribute,
4 just like everybody else has to, to our society. But
5 that you, on the other hand, choose to make your living
6 from selling drugs. Is that a fair statement?

7 THE DEFENDANT: Yes, sir, I guess it would be.

8 THE COURT: All right. Tell me about his
9 record.

10 MR. CAMPBELL: Your Honor, if it please the
11 Court. He has an extensive record. Not dealing with
12 juvenile but starting ---

13 THE COURT: I want the juvenile. I want
14 everything.

15 MR. CAMPBELL: Okay. I don't have his juvenile
16 record.

17 THE COURT: You don't? Okay.

18 MR. CAMPBELL: Actually, Mr. McElhannon
19 actually handled the juveniles back in the day.

20 MR. MCELHANNON: I don't have the record.

21 THE COURT: Okay.

22 MR. CAMPBELL: Starting in 2005, and we'll hit
23 the highlights. He was convicted ---

24 THE COURT: Hold on. Hold on. I really want
25 to have his whole record to the extent that you've got it

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1 in front of you.

2 MR. CAMPBELL: I can call downstairs and get

3 ---

4 THE COURT: I'm not worried about the juvenile
5 stuff.

6 MR. CAMPBELL: Okay. I have his whole record
7 right here in front of me.

8 THE COURT: I've got you.

9 MR. CAMPBELL: The juvenile, I can call
10 downstairs and have it sent up.

11 THE COURT: That's all right. I just want to
12 make sure I hear it all.

13 MR. CAMPBELL: Starting in June of 2005, it was
14 possession with intent to distribute meth. 2005-2411 was
15 grand larceny. 2005-2708, pled guilty to burglary
16 second. 2006-2086, pled guilty to burglary second.
17 2006-2345, another possession with intent to distribute
18 meth. 2009, he had an assault and battery high and
19 aggravated nature. 2010, this is December 2010, failure
20 to stop for a blue light. He had an unlawful carrying of
21 a weapon, both incidents 2011-569 and 1478. Another drug
22 conviction, P.W.I.D. meth in 2011-1319. Your Honor, he
23 was before you -- this is the case he was before you.
24 This was February 7th of last year. You actually
25 sentenced him to ten years suspended to five years

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1 probation. And I'm actually going to make this certified
2 copy as an exhibit to the court record due to fact of
3 what that statute says regarding third or subsequent
4 offenses.

5 (WHEREUPON, Court's Exhibit Number 3 was marked for
6 identification only.)

7 MR. CAMPBELL: After -- he's had probation
8 violated before. And we're talking about when he went to
9 the Department of Corrections on some of the earlier
10 cases. After you placed him on probation, he was
11 arrested later in March for failure to stop for a blue
12 light. He got out and made bond on that in May ---

13 MR. MCELHANNON: Your Honor, I don't mean to
14 interrupt, but those are not convictions.

15 THE COURT: I understand.

16 MR. MCELHANNON: Okay.

17 MR. CAMPBELL: And then in May he also had a
18 resisting arrest. He -- and Detective Gebing can give a
19 better synopsis of that. He's been a drain on our
20 resources through law enforcement. We feel that he is a
21 prime candidate for the maximum sentence due to the fact
22 that he's not going to be reformed. He keeps getting in
23 trouble over and over. And it's narcotics, it's
24 burglaries. At this point, you know, I don't see him
25 being redeemable to the community. As a result, you

1 know, we ask that he -- consider the maximum sentence in
2 this range because he's been given a chance over and over
3 and over. He was on probation when he committed this
4 crime. And I'm going to hand up -- and I'm just going to
5 put these, this ---

6 THE COURT: Are those the sentencing sheets
7 that I signed? I want to see -- were those
8 recommendations to me?

9 MR. CAMPBELL: Let me see. I believe they
10 were, sir.

11 THE COURT: Okay.

12 MR. CAMPBELL: I'm going to put -- I'm going to
13 hand up all the drug convictions because that's what
14 really goes to the third or subsequent offense.

15 THE COURT: All right.

16 MR. CAMPBELL: This is just one of the ones
17 that you sentenced him.

18 THE COURT: Anything further?

19 MR. CAMPBELL: He's been incarcerated for two
20 hundred and thirty-eight days from May 16th. He was
21 actually incarcerated on this charge itself for one day.
22 He made bond and then got rearrested on May 16th of last
23 year. He's been incarcerated -- his bond was revoked
24 after that. He's been incarcerated, I've tallied up, as
25 two hundred and thirty-eight days.

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1 THE COURT: Do you agree with that?

2 MR. MCELHANNON: I agree with two thirty-eight,
3 Your Honor, yes, sir.

4 MR. CAMPBELL: Your Honor, I believe Detective
5 Gebing has a little bit to add too.

6 THE COURT: I'll be glad to hear from you.

7 DETECTIVE GEBING: Your Honor, first I'd like
8 to say thank you for allowing me to speak. I had a
9 minimal role in this case and it's not really mine, but I
10 do have some things I would like to say, not from a
11 personal point of view but from a law enforcement
12 standpoint. I, myself, have never arrested Mr. Todd or
13 interviewed him as a suspect. I have, however, arrested
14 people for things where he's been a victim. So again, my
15 point of view here today is not personal at all.

16 I would like to note though that while I may have
17 never been after Mr. Todd, many of my colleagues and
18 subordinates have. He's been a considerable drain on law
19 enforcement for a number of years. I remember dealing
20 with him when he was thirteen and fourteen years old for
21 domestic issues. Yesterday, Your Honor, I searched our
22 report system just by entering the name Christopher Todd
23 as a suspect. And since 2000, he comes back listed as a
24 suspect fifty-six times within our system. Those aren't
25 necessarily all that led to an arrest or a warrant or

1 whatever the case may be. But of those fifty-six, Your
2 Honor, that includes some lengthy times of incarceration
3 both at the Department of Corrections and with the
4 county. And of those fifty-six, twenty of them actually
5 did lead to his arrest.

6 I asked Sheriff Skipper to be here. He said he was
7 on his way. But not knowing whether he would be in time
8 or not, he told me that I could feel free to bring this
9 to your attention.

10 He has definitely gotten his share of attention from
11 law enforcement over the years. His and then some. And
12 myself and many of my colleagues and subordinates are
13 looking forward to having a few years without him, Your
14 Honor. And to be honest with you, the more the better.
15 We, of course, ask for the maximum that you can see fit.

16 THE COURT: All right.

17 DETECTIVE GEBING: Thank you, Your Honor.

18 THE COURT: Thank you very much. All right.

19 Mr. McElhannon, do you have anything further?

20 MR. MCELHANNON: Nothing further, Your Honor.

21 Again, just ask -- I know his record's bad and I know
22 he's been in trouble half of his life. I don't ever like
23 to think that no one is reformable, Your Honor. And I --
24 you know, I -- certainly, there are people out there that
25 probably are not. But I don't like to think that way,

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1 and that's not my philosophy in life. I would just ask
2 for you to at least give him a chance.

3 THE COURT: Mr. Todd, what do you have to say,
4 anything?

5 THE DEFENDANT: I just beg you for leniency. I
6 know I got a rough history, a rough past. Please give me
7 another chance. Please don't take my life away. Please.
8 I know I messed up.

9 Can I also say one thing? I'd like to -- if I've
10 caused Anderson County any trouble over the years, I
11 apologize.

12 THE COURT: All right. Anything further from
13 either side?

14 MR. CAMPBELL: No, Your Honor.

15 MR. MCELHANNON: No, Your Honor.

16 THE COURT: Mr. Todd, I'm going to sentence you
17 to twenty-five years and suspend that on the service of
18 actual fifteen years, put you on probation for five years
19 once you get out. I'm also fining you fifteen thousand
20 dollars. I'm requiring that you, when you get out, that
21 you perform two hundred hours of community service by way
22 of public service employment.

23 Also, when you get out, you're going to be required
24 to go out and find a job three times each and every week.
25 You will keep a written record of the jobs that you seek.

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1 It has to be for full-time employment where they withhold
2 taxes and/or will report taxes. Unless and until you do
3 that, you will attend Job Corp. While you're on
4 probation, you'll undergo random drug testing and you
5 will receive substance abuse counseling.

6 I'm giving you credit for two hundred and thirty-
7 eight days of incarceration. And this shall have no
8 effect on any probation revocation hearing that may be
9 subsequently ordered.

10 Good luck to you.

11 MR. MCELHANNON: Thank you. Your Honor.

12 (WHEREUPON, the trial ended at approximately 1:17
13 p.m. and then reconvened at approximately 1:23 p.m.)

14 THE COURT: Would y'all ask them to bring Mr.
15 Todd back in, please?

16 (WHEREUPON, the Defendant entered the courtroom.)

17 THE COURT: We're back on the record with Mr.
18 Todd. I looked at the statute, and I thought it was
19 suspendable. It was pointed out to me that because the
20 prior record of Mr. Todd contained possession with intent
21 to distribute as opposed to simple possessions as under
22 subsection A is not suspendible. And therefore, I need
23 to resentence him because that is an improper sentence,
24 and I cannot give him a split sentence. What I'm going
25 to do is sentence you to a straight fifteen years, give

State v. Christopher Lee Todd 2012-GS-04-1859
Verdict and Sentencing

187

1 you credit for two hundred and thirty-eight days. The
2 fine remains in place, fifteen thousand dollars.

3 Good luck to you.

4 MR. MCELHANNON: Yes, sir.

5 Thank you, gentlemen.

6 (WHEREUPON, the trial ended at approximately 1:24
7 p.m.)

8 *** END OF REQUESTED TRANSCRIPT OF RECORD ***

1 CERTIFICATE OF REPORTER

2 I, the undersigned Renee H. Tollison, Official Court
3 Reporter for the Tenth Judicial Circuit of the State of
4 South Carolina, do hereby certify that the foregoing is a
5 true, accurate, and complete transcript of record of all
6 the proceedings had and evidence introduced in the
7 trial/hearing of the captioned case, relative to appeal,
8 in the Circuit Court for Anderson County, South Carolina,
9 on the 7th and 8th days of January 2013.

10 This transcript may contain quoted material. Such
11 material is reproduced as read by the speaker.

12 I do further certify that I am neither of kin,
13 counsel, nor interest to any party hereto.

14 May 7, 2013

15

16

Renee H. Tollison

17

Circuit Court Reporter

DOCKET NO. 2012GS04 01859

The State of South Carolina

County of Anderson

COURT OF GENERAL SESSIONS

AUG 14 2012

Term

THE STATE

vs.

Christopher Lee Todd

RLC

Indictment for

Drugs/Possession of Methamphetamine with
Intent to Distribute

SC Code: 44-53-0375(B)(3)
CDR Code: 3200

WITNESSES

C S Whitfield, Anderson Co. Sheriff's Office

ARREST WARRANT NUMBER

J912110

ACTION OF GRAND JURY
HUEBILL

AUG 14 2012

Foreperson of Grand Jury

Date:

VERDICT

Foreperson of Petit Jury

Date:

STATE OF SOUTH CAROLINA)

INDICTMENT

COUNTY OF Anderson)

AUG 14 2012

At a Court of General Sessions, convened on _____, the Grand Jurors of Anderson County present upon their oath:

Drugs/ Possession of Methamphetamine with Intent to Distribute

That on or about May 10, 2012, in Anderson County, South Carolina, the Defendant, Christopher Lee Todd, did possess with intent to distribute, dispense, or deliver Methamphetamine, a schedule II controlled substance under provisions of Section 44-53-110, et seq., Code of Laws of South Carolina (1976), as amended, such possession not having been authorized by law, all in violation of Section 44-53-375, Code of Laws of South Carolina (1976), as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

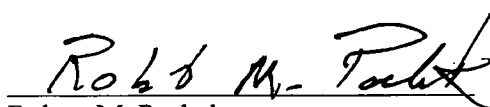
Ramel Campbell

ASSISTANT SOLICITOR

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 August 13, 2007, order from the South Carolina Supreme Court entitled "Interim Guidance Regarding Personal Data Identifiers and Other Sensitive Information in Appellate Court Filings."

June 14, 2013

A handwritten signature in black ink, reading "Robert M. Pachak", written over a horizontal line.

Robert M. Pachak
Appellate Defender

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

ATTORNEY FOR APPELLANT

ORIGINAL

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Anderson County
R. Lawton McIntosh, Circuit Court Judge

RECEIVED
JUN 14 2013
SC Court of Appeals

THE STATE,

RESPONDENT,

V.

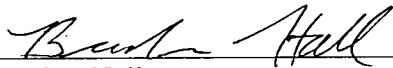
CHRISTOPHER LEE TODD,

APPELLANT

APPELLATE CASE NO. 2013-000118

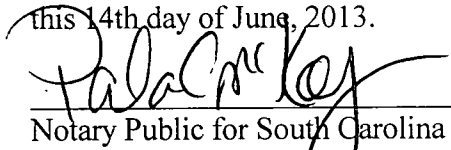
CERTIFICATE OF SERVICE

I certify that a true copy of the Record on Appeal in the above referenced case has been served upon Salley W. Elliott, Esquire, at Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, this 14th day of June, 2013.



Brandon Hall
Administrative Specialist

SUBSCRIBED AND SWORN TO before me
this 14th day of June, 2013.



(L.S.)
Notary Public for South Carolina
My Commission Expires: July 24, 2022.