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SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Lexington County
Honorable Debra R. McCaslin, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

KELSEY N. SPURLOCK,

APPELLANT

APPELLATE CASE NO. 2022-000476

RECORD ON APPEAL

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State of South Carolina

Court of General Sessions

County of Lexington

State	)	
	)	
	)	Transcript of Record
v.	)	2021-GS-32-02612
	)	2021-GS-32-02981
Kelsay Nicole Spurlock	)	
	)	
<u>Defendant.</u>	)	

September 13 - 16, 2021
Lexington, South Carolina

B E F O R E:

The Honorable Debra McCaslin, Judge; and a
jury.

A P P E A R A N C E S:

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Attorney for the Defendant

Bethanie K. Creppon
Circuit Court Reporter

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1 PROCEEDINGS

2 * * *

3 THE COURT: All right. We're about to begin
4 the trial of State of South Carolina vs. Jake Robert
5 Fredrickson and Kelsay Nicole Spurlock.

6 Mr. Pogue, if you would call your case, please.

7 MR. POGUE: Thank you, Your Honor. May it
8 please the Court?

9 THE COURT: Yes, sir.

10 MR. POGUE: Your Honor, the State calls
11 Indictment No. 2021-GS-32-01376, the State versus
12 Jake Robert Fredrickson, indicted for trafficking
13 methamphetamine, 28 grams or more, but less than 100
14 grams.

15 Indictment No. 2021-GS-32-02977, the State
16 versus Jake Robert Fredrickson, indicted for
17 burglary second degree.

18 Indictment No. 2021-GS-32-02980, the State
19 versus Jake Robert Fredrickson, indicted for failure
20 to stop for a blue light.

21 Indictment No. 2021-GS-32-02612, State versus
22 Kelsay Nicole Spurlock, indited for trafficking
23 methamphetamine, 28 grams or more, but less than 100
24 grams.

25 And Indictment No. 2021-GS-32-02981, the State

1 versus Kelsay Nicole Spurlock, indicted for burglary
2 second degree.

3 THE COURT: All right. Mr. Sutherland, is your
4 client prepared?

5 MR. SUTHERLAND: Yes, ma'am. We're ready.

6 THE COURT: And how does he plead?

7 MR. SUTHERLAND: He pleads not guilty, Judge.

8 THE COURT: Mr. Story, is your client prepared?

9 MR. STORY: She is, Your Honor.

10 THE COURT: And how does your client plead?

11 MR. STORY: She pleads not guilty to both
12 counts, Your Honor.

13 THE COURT: All right. Thank you.

14 Before we select the jury, I have several
15 questions that I need -- that I have to ask you.
16 And if you need to answer any of them, it's the same
17 that we did on the last one. Okay?

18 First off, I'm going to let the attorneys for
19 the State introduce themselves and anyone else that
20 is assisting in the prosecution of this case.

21 MR. POGUE: Thank you, Your Honor. My name is
22 Bradley Pogue. I'm the assistant solicitor here in
23 the 11th Judicial Circuit, which includes Lexington
24 County, Edgefield, Saluda, and McCormick County.

25 Seated to my right is our investigator here in

1 the Lexington office, Justin Ashley. And, also,
2 seated further on the right here, you may see, from
3 time to time, our deputy solicitor, Shawn Gram.

4 THE COURT: Thank you, Mr. Pogue.

5 Let me turn to you, Mr. Sutherland. If you'll
6 introduce yourself, the law firm you work with, and
7 your client.

8 MR. POGUE: Yes, ma'am. My name is Tivis.
9 It's an unusual name. It's like Elvis, but drop the
10 E-L and put a T-I in front of it. And last name is
11 Sutherland. And this is Jake. And I work for
12 myself.

13 THE COURT: All right. Same for you,
14 Mr. Story.

15 MR. STORY: Good afternoon. I'm Stephen Story,
16 and I represent Ms. Kelsay Nicole Spurlock.

17 THE COURT: Okay. Thank you.

18 All right. Let me ask the jury panel. Has any
19 member ever been represented by any of the attorneys
20 or their law firms in this case? If so, please
21 stand.

22 Is any member of the jury panel related by
23 blood or marriage, know personally, or have any
24 religious, political, social, or business
25 association with any of the attorneys involved in

1 number, to call tomorrow night, and it will tell you
2 what time to report. Again, as I told the last
3 jury, if you are late, we can't start. So I would
4 ask everybody to be on time. I don't know if this
5 case is going to start early Wednesday morning or in
6 the afternoon. But it will be on the telephone
7 call-in for when y'all need to report. Okay?

8 With that said, I'm going to let the bailiff
9 take you. Thank you again for your service.

10 (The jury exits the courtroom at 3:41 PM.)

11 THE COURT: Any motions from the State?

12 MR. POGUE: Not from the State, Your Honor.

13 THE COURT: Mr. Sutherland?

14 MR. SUTHERLAND: No, Your Honor.

15 THE COURT: Mr. Story?

16 MR. STORY: No, Your Honor.

17 THE COURT: All right. I'm going to excuse
18 y'all. I'll be in contact with y'all to see where I
19 am. So y'all may be excused.

20 (The following proceedings were held September
21 15, 2021.)

22 THE COURT: I received these last-minute
23 motions. I've read through them. All right. Mr.
24 Story, you want to put these on the record?

25 MR. STORY: Yes, Your Honor. So the first

1 matter would be, I believe the State or the
2 co-defendant may intend to call statements by the
3 co-defendant.

4 Essentially, when he was arrested, he said he
5 was driving under suspension, and that's the reason
6 he ran. That indirectly implicates my client,
7 because, of course, the State is going to use flight
8 as evidence of guilt of the drugs. The implication
9 being, in his mind, is that he ran because he was
10 driving under suspension and --

11 THE COURT: Y'all take off your masks so I can
12 hear you.

13 Where is your client?

14 MR. STORY: She's on her way, Your Honor.

15 THE COURT: Do we need to wait until she gets
16 here?

17 MR. STORY: Whatever the -- I can argue the
18 pre-trial motions before the jury comes in.

19 THE COURT: Okay. Go ahead.

20 MR. STORY: So, Your Honor, this is a violation
21 of the right to cross-examination under
22 U.S. v. Bruton. I did send that motion, I believe,
23 Thursday of last week.

24 The State, in their reply, was that they do not
25 intend to call that testimony, except possibly for

1 impeachment if one of our clients testify.

2 THE COURT: Right.

3 MR. STORY: But I believe the co-defendant does
4 want to enter that or elicit that testimony from the
5 officers. So I would ask for an order from the
6 Court. That's a violation of Bruton, violation of
7 Crawford v. Washington, 6th Amendment right to
8 confrontation, and it should be suppressed, Your
9 Honor.

10 MR. SUTHERLAND: And if I may, Your Honor,
11 under Bruton and under, I think it's
12 Richardson vs. Marsh, it's only facially
13 incriminating statements that are excluded under
14 Bruton and Marsh, not inferentially incriminating
15 statements against the co-defendant.

16 So if he says, I was running because my license
17 was suspended, that's not saying anything about her.
18 It may inferentially point the finger towards her.
19 But, you know, the issue with excluding
20 co-defendants' statements under Bruton and Marsh is
21 whether they are facially directly inculpatory of
22 the co-defendant, not just inferentially. And I did
23 not --

24 THE COURT: Well, what statement is it that
25 y'all think the State is going to introduce?

1 MR. SUTHERLAND: Well, I know --

2 MR. POGUE: The State is not going to introduce
3 what was --

4 THE COURT: I thought -- I read that.

5 MR. POGUE: -- in our case in chief that --
6 nothing about DUS in their case in chief. That
7 was --

8 THE COURT: Are there any co-defendant
9 statements that you plan to introduce?

10 MR. POGUE: Your Honor, because I told you at
11 the bench -- you know, I remember telling you at the
12 bench that I intended to offer no statements
13 whatsoever.

14 THE COURT: That's what I heard.

15 MR. POGUE: The e-mail that I talked about, you
16 know, in regard to the admission to ownership of the
17 digital scale, I will save for the appropriate time
18 at cross-examination, should she take the stand.

19 THE COURT: Should she take the stand?

20 MR. POGUE: Just to be -- you know,
21 obviously, a --

22 THE COURT: So I don't believe this issue has
23 come up yet. We need to see how this trial
24 proceeds.

25 MR. SUTHERLAND: Yes, ma'am.

1 MR. POGUE: However, should Mr. Sutherland,
2 during cross-examination of the State's witnesses,
3 mention or ask or inquire about the fact, you know,
4 whether they had knowledge that his client was DUS,
5 that opens the door.

6 THE COURT: It will open the door.

7 MR. STORY: But, Your Honor, I don't have an
8 opportunity to cross-examine the client. That's why
9 it implicates Bruten and Singly, which I put in my
10 motion, and the other cases.

11 THE COURT: But you would be bringing it up on
12 cross, because he's not going to introduce any of
13 it.

14 MR. STORY: I am not going to bring it up. I
15 believe the co-defendant will bring it up.

16 MR. SUTHERLAND: And, under those
17 circumstances, if he's trying to argue that I can't
18 question him about what my client pled guilty to and
19 what he said to police officers, where, again, it is
20 only inferentially inculpatory towards the
21 co-defendant, it is not facially inculpatory towards
22 the co-defendant, so it doesn't even fall under
23 Bruten and Richardson vs. Marsh and those cases,
24 Your Honor.

25 THE COURT: Okay. Let me hear from you,

1 Mr. Pogue.

2 MR. POGUE: Your Honor, I'm -- it's been since
3 Thursday that I've looked, you know, in depth at
4 Bruton. But from my recollection, anything that
5 could be, you know, indirectly inculpatory towards
6 the co-defendant, a statement of the other
7 co-defendant that is indirectly inculpatory, I
8 believe, from my recollection, it would still be
9 okay as long as it's not obvious to the jury, or you
10 don't have to have background knowledge to make that
11 connection.

12 My other point, Your Honor, would be that
13 should Mr. Sutherland inquire about his client's
14 status in regard to DUS, which, again, the State
15 doesn't intend to bring up in its case of the
16 State's witnesses, the State has made Mr. Sutherland
17 know, you know, I believe, Monday, possibly prior to
18 that, and giving him the evidence of a prior DUS
19 conviction that took place a little over a month
20 prior to this incident where he did not run.

21 So if he goes into that issue, Your Honor, it's
22 the State's position that he's opening the door to
23 the fact that, well, he didn't run from DUS, you
24 know, a little over a month prior to this. You
25 know, I feel like that's a dangerous road in the

1 State's case or even potentially to his client to
2 pursue. But if that's their strategy, maybe he
3 knows something that I don't.

4 MR. SUTHERLAND: And just my view is, he told
5 the police that's why he ran. So it's relevant to
6 the defense, Your Honor. And, I don't know, I mean,
7 if they want to go into prior DUSes, good Lord,
8 he's got --

9 THE COURT: Okay. Well, I thought -- maybe I
10 misunderstood, but I thought when we talked the
11 other day that he was admitting --

12 MR. SUTHERLAND: He's admitting -- I'm going to
13 tell the jury he's guilty of failure to stop when we
14 get up there.

15 THE COURT: -- to the failure to stop for blue
16 light.

17 MR. POGUE: I think what he's getting at, Your
18 Honor, is that he's trying to say that the DUS was
19 the reason why -- his fear of being -- driving under
20 suspension is the reason why he didn't stop.

21 Obviously, it's the State's position that, no,
22 the reason why you didn't stop is because you had a
23 trafficking level of methamphetamine and you just
24 came from a burglary.

25 THE COURT: Right.

1 MR. POGUE: You know, a month prior to this,
2 you were also under suspension. You got pulled
3 over, didn't have any meth in the car, weren't
4 coming from a burglary, pulled over just fine for
5 the police. So I believe he opens the door to that
6 issue when he tries to allege that's the reason why
7 he ran.

8 MR. SUTHERLAND: Well, I mean, my view is, if
9 they want to talk about a prior DUS, I mean, I'm
10 going to talk about this DUS. They want to say he
11 didn't run, well, he got 60 days this time; I don't
12 know what he got on the other DUS. So we can just
13 argue it out, in my view, if they want to talk about
14 one instead of --

15 How many you got, Jake.

16 THE DEFENDANT: A lot.

17 MR. SUTHERLAND: Instead of the a lot.

18 MR. POGUE: Or any of the other DUSes, for that
19 matter, that I'm aware of.

20 They can, you know, use that example. I was
21 just going to use the one, Your Honor, that had
22 recency in regard to just have taken place slightly
23 over a month prior to this.

24 THE COURT: Hang on just a second.

25 All right. Let me see the lawyers up here just

1 for a second.

2 (Sidebar conference.)

3 THE COURT: All right. It's my understanding
4 that the State has no intention of bringing this up
5 in their case in chief. If somehow it comes up,
6 then I would expect you lawyers to make an
7 objection.

8 I think, Mr. Sutherland, if your client takes
9 the stand, I don't think there's any issue here.

10 But I would tell you, Mr. Story, if it does
11 come up in their case in chief, then I'll revisit
12 that matter with y'all.

13 MR. STORY: Thank you, Your Honor.

14 THE COURT: But it's kind of hard for me to
15 rule when I don't know what the testimony is going
16 to be and they're telling me they're not offering it
17 to start with. So I think it's just kind of
18 premature for me to rule on it. And we'll rule on
19 it if it comes up.

20 All right. Any other motion? I saw something
21 about an expert.

22 MR. POGUE: Yes, Your Honor. And this touches
23 on all of this, is that, essentially, both of them
24 are saying that the drugs are not theirs.

25 THE COURT: Right.

1 MR. POGUE: As I mentioned in the e-mails, if
2 both were to be believed, that leaves an unknown
3 third party that left a large amount -- dollar
4 amount of drugs in the car, in plain view, in a bag
5 in someone else's car. The street value -- the
6 whole premise of Jamison is that that evidence is
7 relevant for them to be able to determine the
8 credibility of those claims by, in this case, both
9 co-defendants.

10 MR. STORY: Your Honor, this is my motion. I
11 move to exclude the expert --

12 THE COURT: Right.

13 MR. STORY: -- because it's irrelevant under
14 402. And, more importantly, the State -- State has
15 cited State v. Jamison.

16 In that case, it was one defendant.
17 Essentially, at some point in the trial, the defense
18 was that this was a work truck and other people had
19 left the drugs in the car. Our case is dissimilar,
20 so far as I know.

21 And, Your Honor, I would argue that the
22 prejudicial effect in ours is greater and the
23 probative value to the State is less than it was in
24 Jamison. So I argue that the probative value does
25 not greatly outweigh the prejudicial effect.

1 THE COURT: Well, let me ask y'all this: Are
2 you planning on -- I mean, they've got to say nobody
3 knows anything about these drugs, if that's their
4 plan. I don't know what their defense is. But
5 don't they have to testify to say they don't know?

6 And then is your expert a rebuttal or what?

7 MR. POGUE: Your Honor, I can certainly save
8 him for reply. But, I mean, again, the State's
9 position is if they're both pleading not guilty,
10 that in and of itself says that they're not taking
11 ownership of the drugs; otherwise, I'm assuming that
12 if they get up there and they take ownership of the
13 drugs, they would have just pleaded guilty. But
14 that's not the case.

15 So, again, it's just the deduction, Your Honor,
16 that they both have not pled -- or, excuse me, they
17 both have pled not guilty; that they're both saying
18 the drugs don't belong to them, that leaves nothing
19 other than a third -- an unknown third party that
20 left this large, expensive amount of drugs unguarded
21 in someone else's vehicle.

22 THE COURT: I've read Jamison. And I think
23 they can do it.

24 MR. SUTHERLAND: Yes, ma'am.

25 THE COURT: So I'm going to allow it.

1 MR. POGUE: Thank you, Your Honor.

2 THE COURT: All right. Any other motions?

3 MR. STORY: Yes, Your Honor. Finally, the
4 State apparently intends to submit a statement made
5 by my client to the chief investigator Watkins
6 taking responsibility for some digital scales.
7 That's a violation of her 6th Amendment right to
8 counsel because it was uncounseled in Gaston
9 Magistrate Court.

10 It was also a -- it was a paraphernalia charge,
11 which, my understanding is, the municipalities don't
12 have subject matter jurisdiction to prosecute these
13 cases. So it's a violation of 6th Amendment right
14 to counsel.

15 In addition to that, Chief Watkins did give us
16 a supplemental report saying that Mr. Fredrickson
17 pled guilty to DUS second, Ms. Spurlock pled guilty
18 to a paraphernalia. On Friday, the State submitted
19 the certified conviction, which I sent to Your Honor
20 and your law clerk. Mr. Fredrickson's conviction
21 says guilty, bench trial. Ms. Spurlock's said it
22 was like a bond -- he gave up her bond or something
23 to that effect.

24 I don't know what statements were made to the
25 officer or the Court in that situation. Obviously,

1 it was uncounseled, so it's clearly a violation of
2 the 6th Amendment right to counsel.

3 But, in addition to that, I believe that's a
4 Rule 5 violation, because in our Rule 5 motion, we
5 always make a motion that any statements --

6 THE COURT: And you haven't been provided it?

7 MR. STORY: All I've been provided was that she
8 pled guilty. I don't know what she took
9 responsibility for; I don't know -- it wasn't
10 provided whether it was scales, if it was a pipe,
11 what type of paraphernalia it was.

12 So on those two grounds, it's a violation of
13 complete defense, 5th Amendment, 6th Amendment, 14th
14 Amendment. And I'd ask the Court to keep it out of
15 the State's case.

16 THE COURT: All right.

17 Mr. Pogue?

18 MR. POGUE: Your Honor, just one second, and
19 I'll give you the indictments that, again, were
20 provided to the -- excuse me, the arrest warrants
21 that were given also in discovery that include --
22 and I have copies of them here as well, which -- and
23 they are also public record, Your Honor -- that
24 clearly says is in the indictments -- all of the
25 indictments, they all include the same language,

1 that: After locating all of the crystal
2 methamphetamine, the affiant discovered a partially
3 burned marijuana cigarette and a digital scale used
4 to weigh illegal drugs.

5 Your Honor, that's --

6 THE COURT: Now, are you planning on trying to
7 introduce a conviction?

8 MR. POGUE: No, Your Honor. I thought I made
9 that clear. I'm not intending --

10 THE COURT: Yeah. Because I'm not going to
11 allow you to do that.

12 MR. POGUE: I'm not intending to use a
13 conviction whatsoever either in case in chief or in
14 cross-examination.

15 THE COURT: Right. I'm not going to allow
16 that.

17 MR. POGUE: Your Honor, it's simply her
18 pleading guilty to possession of paraphernalia,
19 which the paraphernalia was a digital scale, is an
20 admission to possession of the digital scale. I
21 mean, otherwise, a guilty plea to possession of that
22 paraphernalia wouldn't -- wouldn't stand. I mean,
23 it's kind of --

24 And in regard to the Rule 5 violation, there is
25 no substance other than the fact that she pled

1 guilty to that charge. The reason why --

2 THE COURT: Is there a statement to law
3 enforcement that you're trying to introduce that he
4 hasn't seen?

5 MR. POGUE: No. There's no statements
6 whatsoever, Your Honor, that the State has been
7 provided or that the State is aware, through my
8 speaking with the chief investigator -- or, excuse
9 me, Chief Watkins, who was present at court and
10 whose case this was.

11 According to him, the defendant, Jake
12 Fredrickson, was incarcerated at the time, so he was
13 transported via jail. That's why his says guilty,
14 bench trial, something like that. . But when somebody
15 just pays a fine -- apparently, he worked it out
16 where he would dismiss the marijuana charge against
17 her and she pay the fine for the possession of
18 paraphernalia.

19 Again, that was the extent, the substance of
20 the exchange that -- as it was told to me and is
21 that he recalls, which is summarized explicitly that
22 way in the discovery that was turned over, Your
23 Honor, which says -- I can show you.

24 I believe I sent that to you in an e-mail as
25 well. But I can provide a hard copy as well. That

1 was provided to him in discovery two years ago.

2 May I approach, Your Honor?

3 THE COURT: Yeah.

4 MR. STORY: May I see it?

5 MR. POGUE: And, Your Honor, the certified
6 convictions disposition sheets that I sent to them
7 on Friday morning was none -- just for the purposes
8 of if she were to take the stand and I ask her if
9 she admitted to possessing the digital scale and she
10 denies it, only at that point would I offer a
11 certified record of her conviction, because she's
12 opening the door to that issue at that particular
13 point in time. So I intended --

14 THE COURT: So you're planning on offering this
15 testimony through the officer in your case in chief?

16 MR. POGUE: Because I told you that I would not
17 offer any statements, I'm not going to do that.
18 Only if she takes the stand, I will ask her about
19 the fact that she admitted to ownership of the
20 scale.

21 THE COURT: All right. I think everybody's
22 been put on notice. We'll have to wait and see if
23 she takes the stand.

24 MR. POGUE: Thank you, Your Honor.

25 MR. SUTHERLAND: And just on my view, that

1 disposition sheet, you don't want to put it in
2 against Jake? I mean, I am going to talk about
3 it --

4 MR. POGUE: No. Again, the only reason why
5 I -- I turned over all the disposition sheets just
6 so they would -- I asked them for the certified
7 copies of them just so they would have a record of
8 it, so they would know and I would have a record if
9 I needed to use it for extrinsic evidence.

10 THE COURT: Right. I agree. I'm just telling
11 y'all, you know, I don't know -- these defendants
12 have the right not to testify at all. I don't know
13 how this case is going to go. But please feel free
14 to make an objection, and I'll rule on it when we
15 get there. Other than that, we can spend the next
16 hour discussing what might happen and what might not
17 happen.

18 I'll tell you this: The State has said they
19 are not introducing any statements of these two
20 defendants, and I'm not going to allow it. If they
21 try to do so, then it's going to be a mistrial. I'm
22 not going to allow it. And if anything else comes
23 up in between, y'all can object, and then I'll rule
24 on it. Okay?

25 MR. POGUE: Thank you, Your Honor.

1 MR. STORY: Thank you, Your Honor.

2 MR. SUTHERLAND: I'm just recalibrating my
3 opening. I've got to plant that in there: Do not
4 talk about the DUS. But it's all pretty fluid once
5 I get there.

6 THE COURT: All right. Well, are y'all ready?
7 You got to give me just one second. I've got two
8 officers right here that need me.

9 (Brief pause in the proceedings.)

10 MR. POGUE: Your Honor?

11 THE COURT: Yes?

12 MR. POGUE: One thing I also wanted to ask
13 about -- and I don't know if this needs to be on the
14 record or not. I gave both of the defendants'
15 counsel in this case copies of what I propose the --
16 I don't want to use the word redaction because
17 there's nothing taken out in regard to the video.
18 But I muted what I believe will be hearsay or
19 inappropriate statements of a co-defendant, Your
20 Honor, from the videos, from both the dash cams and
21 the body cams of Officers Poole and Watkins.

22 I didn't know if there was any issues that they
23 have with those redactions. And if Your Honor had
24 any instruction that you wanted to give to the jury
25 in regard to why some of the video was muted and

1 that it was just -- you know, however you wanted to
2 artfully, you know, address that with the jury.

3 THE COURT: Have y'all looked at the redacted
4 videos?

5 MR. SUTHERLAND: I have, Your Honor. And I
6 told him, you know, I didn't have an issue with what
7 was in there coming in. So I think that's more with
8 the co-defendant. And as far as there just being
9 silence on there, I don't know if it will draw
10 attention to the jury that stuff redacted, other
11 than just playing it and it's quiet and it's not.
12 The body cam, the first 30 seconds or so when you
13 turn them on are quiet anyway. But I don't have any
14 objection to what they did.

15 THE COURT: Do you want me to give an
16 instruction to the jury, though?

17 MR. SUTHERLAND: I do not. I didn't want to
18 draw attention to the redaction.

19 THE COURT: Well, I probably wouldn't either.

20 MR. SUTHERLAND: Yes, ma'am.

21 THE COURT: I don't know that I need to give an
22 instruction, unless someone is specifically
23 requesting it.

24 MR. POGUE: No, ma'am.

25 THE COURT: Mr. Story?

1 MR. STORY: No, Your Honor. Thank you.

2 THE COURT: And do you have any objection to
3 them playing the video like it is?

4 MR. STORY: No, Your Honor.

5 THE COURT: All right. Let's bring the jury.

6 (The jury enters the courtroom at 9:53 AM.)

7 THE COURT: All right. Good morning.

8 Is Mr. Martin here?

9 Mr. Martin, would you do me the honor of being
10 my foreperson?

11 THE FOREMAN: Yes, ma'am.

12 THE COURT: Thank you. They'll give you a
13 special chair when they bring you back in the next
14 time. Okay?

15 THE FOREMAN: Okay.

16 THE COURT: All right. If I could get the
17 jury's attention, there's a preliminary statement
18 I'm going to read to you, so please listen.

19 What I will now say is meant to serve as an
20 introduction to the trial of this case. These
21 remarks are not a charge on the law in this case. I
22 will instruct you on the law at the end of the case,
23 before you retire to decide the case.

24 Before the trial begins, I want to explain the
25 procedure that we will follow, so that you can

1 better understand what is happening. I don't
2 allow any -- wait.

3 Before I continue, can I get the jury sworn in,
4 please?

5 THE CLERK: Yes, ma'am.

6 THE COURT: Excuse me. Hold on to that
7 thought.

8 THE CLERK: If I can have all of y'all stand,
9 please, and raise your right hand.

10 (Jury sworn.)

11 THE COURT: All right. I'll continue. You've
12 been selected as fair and impartial jurors, whose
13 purpose is to find and determine the facts. You are
14 the sole judge of the facts, if you will. If, at
15 any time, I make a comment on the facts, you must
16 disregard it. You are to determine the facts from
17 the testimony you hear and any other evidence that
18 is presented. You should not be influenced by any
19 opinions or statements you may have heard outside of
20 this courtroom.

21 It is especially important that you perform
22 your duty of determining the facts diligently and
23 conscientiously because, ordinarily, there is no way
24 to correct an erroneous determination of the facts
25 by a jury. When you comply with your oath to

1 impartially determine the facts of this case, you
2 will have fulfilled your duty as jurors and no one
3 will have the right to criticize your verdict.

4 On the other hand, and with equal emphasis, the
5 same law that makes you the judges of the facts
6 makes me the judge of the law. The law as given by
7 the Court is the only law you may consider. You
8 must accept and follow it even though you may
9 disagree with it. I cannot tell you what the facts
10 are, and you cannot disagree with me about what the
11 law is or should be. Your job is to take the law as
12 I give it to you and apply it to the facts as you
13 find them from the testimony of the witnesses and
14 any other evidence that is presented.

15 After doing that, you will render your verdict,
16 a true and just verdict, under the solemn oath that
17 you just took as jurors. Until I advise you to
18 begin deliberations, you must not discuss this case
19 with anyone including your fellow jurors, your
20 friends, family members, or anyone involved in the
21 case.

22 This includes discussions face-to-face, by
23 telephone, e-mail, text, blogs, or any other method
24 of communication. You may not use a computer, a
25 cell phone, or other electronic devices with

1 communication abilities at any time while in this
2 courtroom or during your deliberations.

3 During the trial, do not read, listen to, or
4 watch any news reports about this case. This
5 includes anything that may be in the newspapers or
6 on the internet, radio, or television. You must not
7 consider anything you may have read or heard about
8 the case outside of this courtroom, whether before
9 or during the trial.

10 After the case is submitted to you, you must
11 discuss it only in the jury room with your fellow
12 jurors. The attorneys and the parties in this case
13 have been advised that they are not to talk to you
14 at all. So if you see anyone involved in the case
15 and they do not even say hello, they're not being
16 unfriendly or rude, they're just following my
17 instructions. I think I explained that to you on
18 the very first day when you were selected.

19 It is very important that you keep an open mind
20 and not decide any issue in the case until all of
21 the evidence has been presented, the parties have
22 made their closing arguments, and I have instructed
23 you on the law in this case.

24 Now, in just a moment, the attorney for the
25 plaintiff will make what is called an opening

1 statement. The attorney will explain to you the
2 issues in this case or, at least, what the attorney
3 thinks the issues are in this case. The attorney
4 for the defendant will also make an opening
5 statement. In this case, we have two co-defendants,
6 so each lawyer will have an opportunity for an
7 opening statement.

8 What the attorneys tell you during their
9 opening statements is not evidence, it is only their
10 contention as to what the issues are. The evidence
11 in this case will be presented to you by testimony
12 of sworn witnesses from this witness stand and any
13 exhibits that may be introduced into evidence.

14 I'll also tell you, from time to time, you may
15 hear one of the lawyers say, Your Honor, I've got a
16 question of law or they may object or may we
17 approach the bench. The reason for this is usually
18 it's a matter of law. And I might excuse y'all to
19 the jury room so I can discuss it with the lawyers.
20 Again, I will tell you that you are not to draw any
21 inference from a lawyer making an objection or if I
22 ask them to approach the bench. You are here to
23 judge the facts of the case. I am judge of the law.

24 In determining what the true facts are in the
25 case, you must decide whether the testimony of the

1 witnesses is believable. It will be my
2 responsibility to rule as a matter of law as to
3 whether certain testimony is admissible at all or
4 not. But once the testimony is admitted, whether or
5 not you believe it is solely for you to determine.

6 In deciding whether to believe a witness, you
7 have the right to consider whether the witness has
8 an interest in the result of the trial, whether the
9 witness is prejudice toward either the plaintiff or
10 the defendant; the opportunity for the witness to
11 have seen the matters and things about which the
12 witness is testifying about, and the way the witness
13 acts on the witness stand.

14 You have the right to consider anything that is
15 in the record that will help you evaluate the
16 testimony of the witnesses. That means it is your
17 duty to pay close attention to these witnesses; to
18 observe them, to listen, and to pay close attention
19 to the attorneys and the Court.

20 Don't let your thoughts wander, but pay
21 attention to the testimony, so that at the end of
22 the trial, you will be able to determine what the
23 true facts are and to apply the law to those facts
24 and render a true and just verdict.

25 It is your added duty, Mr. Foreman, to preside

1 in the jury room, and to be the jury's spokesperson
2 here in court.

3 In order -- I guess, to preserve everybody's
4 rights, I'll give the parties an opportunity to
5 object to anything I've said to the jury. Does the
6 plaintiff have any objections?

7 MR. POGUE: Your Honor, the State doesn't have
8 any objection to what you said, but I'd request that
9 we could approach just for one quick second.

10 THE COURT: Sure.

11 (Sidebar conference.)

12 THE COURT: Ladies and gentlemen of the jury,
13 now, see, those are one of the things I was telling
14 you about, when the lawyers approach. We need to
15 redo the oath in this case. So I'm going to ask the
16 madam clerk to swear the jury again.

17 THE CLERK: Was there anyone unable to take
18 that oath?

19 MR. POGUE: Okay.

20 (Jury sworn.)

21 THE COURT: Just a few housekeeping rules
22 before we start this trial: By order of our Chief
23 Justice, everyone must wear a mask. So I'm asking
24 everyone who is a witness out in the audience to
25 make sure they wear a mask. However, I ask the

1 lawyers not to wear their masks.

2 Believe it or not, I went and sat where y'all
3 are sitting and if they have a mask on, they sound
4 mumbled, and I could not hear them. So I'm going to
5 tell the jury, if at any time you cannot hear these
6 lawyers, please raise your hand. Trust me, I'll be
7 keeping an eye on you and I'll see you.

8 But I'm going to ask them not to wear their
9 mask. I do not allow a witness to wear a mask when
10 they're testifying. We've got Plexiglas here. I
11 think it's important that the jury see their entire
12 face when they're testifying. So when they are
13 testifying, I do not want anyone to wear a mask.

14 Now, if any of the lawyers choose to wear a
15 mask, that's fine by me. I'm not telling you that
16 you cannot. But I'm also instructing this jury,
17 because I've sat on that back row and I tried to
18 listen, and it's really, really hard. I don't want
19 anybody -- lawyers up there by the bench talking to
20 these jurors. Y'all stay six feet away from them.

21 If you approach the witness stand and you have
22 an exhibit, I'd ask that you put your mask on for
23 that witness. But if at any time you cannot hear --
24 this case is too important to both sides. You need
25 to be able to hear. If you can't hear, raise your

1 hand. Okay?

2 Anything from the plaintiff before we begin?

3 MR. POGUE: Nothing from the State, Your Honor.

4 THE COURT: Anything from the defense?

5 MR. SUTHERLAND: No, ma'am.

6 THE COURT: Mr. Story?

7 MR. STORY: No, Your Honor.

8 THE COURT: All right. We're going to begin
9 this trial.

10 Mr. Pogue?

11 MR. POGUE: Thank you, Your Honor. May it
12 please the Court?

13 MR. COURT: Yes, sir.

14 MR. POGUE: It is still morning, so good
15 morning. Ladies and gentlemen of the jury, this
16 case is about common sense. Now, don't get me
17 wrong; it's most certainly about drugs and the
18 dangerous high-speed chase and burglary. But the
19 key to understanding this case, the way that you
20 will be able to comprehend the defendant, both of
21 them's actions and the key to understanding the case
22 is your common sense.

23 Let's rewind a little bit. The evidence in
24 this case will show that on October 3rd, 2019,
25 somewhere between 2:30 and 3:00 in the afternoon,

1 Chief Watkins with the Gaston Police Department
2 received a call-out on the radio to a burglary in
3 process on Ben Spires Road.

4 On the other side of town, the defendants, both
5 of them in this case, Jake Fredrickson and Kelsay
6 Spurlock, were discovered in the residence at [REDACTED]
7 Ben Spires Road, also in the Gaston area, by the
8 owner of the resident's father.

9 Now, the owner of the residence, Dwayne Spires,
10 he had evicted Kelsay Spurlock a little over a month
11 prior to this, in August. So when the victim's
12 father saw them inside the residence that she had
13 been evicted from, he told them that he was calling
14 the police and that they had to leave.

15 Short time later, both the co-defendants in
16 this particular case get into their white GMC truck
17 and start to drive off towards downtown Gaston. At
18 that point in time, when they reached the
19 intersection of Ben Spires Road and the main drag
20 that goes through Gaston, Chief Watkins sees the
21 vehicle that was described to him. And, at that
22 particular point in time, he flips around, gets
23 behind the vehicle, and initiates his blue lights
24 and his siren.

25 Well, instead of stopping or even slowing down,

1 the driver of the vehicle, Jake Fredrickson, he
2 refuses to stop and leads multiple law enforcement
3 agencies, Chief Watkins included, on a desperate
4 high-speed chase through a good part of the Gaston
5 area.

6 After eventually crashing into a group of trees
7 off of Mimosa and Woodrow Boone Drive, the
8 co-defendant, Jake Fredrickson, proceeds to exit the
9 vehicle and flee on foot and run and hide in a
10 drainage culvert under Mimosa Drive. The other
11 co-defendant, Kelsay Spurlock, is removed at gun
12 point from the vehicle and placed into custody.
13 Eventually, the co-defendant, Jake Fredrickson, is
14 discovered in the culvert underneath the road and is
15 also placed in custody.

16 A subsequent inventory search of the crashed
17 vehicle results in a trafficking level of
18 methamphetamine in a bag between the two seats, the
19 driver's seat and the passenger's seat, a digital
20 scale, and mail addressed to [REDACTED] Ben Spires Road.

21 Now, as you were made aware at the beginning of
22 this case on Monday, Kelsay Spurlock is charged with
23 two separate indictments: She's charged with
24 trafficking methamphetamine and burglary second
25 degree.

1 Now, closer to the end of the trial, the Judge
2 will instruct you as to what the law is and the
3 elements that we have to prove for both of those
4 crimes. The other co-defendant, Jake Fredrickson,
5 is also charged with both trafficking and burglary
6 second degree. However, in addition, because he was
7 the driver of the vehicle during the chase, he is
8 also charged with failure to stop for a blue light.

9 Now, we, the State, we have the burden of
10 proving all of the elements of all of those crimes
11 to you beyond a reasonable doubt. I know that's a
12 phrase that probably all of you have heard before.

13 But what exactly does that mean? What does
14 beyond a reasonable doubt mean? Well, the Judge
15 will instruct you that beyond a reasonable doubt is
16 evidence that leaves you firmly convinced of the
17 defendant's guilt.

18 Now, there's very few things in this world that
19 we know with absolute certainty. And the law, in
20 criminal cases, does not require that we prove to
21 you the defendant's guilt to an absolute certainty.
22 The law does not require that. It requires that we
23 prove their guilt on the charges to you beyond a
24 reasonable doubt. Any doubt that you have about the
25 case, in order to find them not guilty, would have

1 to be reasonable.

2 Again, this is a burden that we welcome. If we
3 reach the end of this case and you don't feel that
4 we've carried that burden, you have a duty and the
5 State would ask that you find them not guilty.
6 However, on the other hand, should you believe that
7 we did provide and present to you both testimony and
8 physical evidence that has proven to you beyond a
9 reasonable doubt as to the charges that they've been
10 indicted on, we'd ask that go back and find them
11 guilty.

12 Now, the reason why you were chosen for this
13 case is because you struck me as people who don't
14 lose the forest for the trees, so to speak. You
15 struck me as people who possess good, old-fashioned
16 common sense, as I said earlier. You strike me as
17 folks that don't easily have your intelligence
18 insulted.

19 When you get done listening to the testimony
20 and viewing all of the evidence in this case, the
21 most important thing that you will have back there
22 in the jury -- they don't let you take a lot things
23 -- they used to not let you take your phones. I
24 think they do let you take your phones now. But
25 they used to not let you take your phone.

1 But the most important thing you'll have back
2 there is your common sense. I urge you to use your
3 common sense when you are deliberating this
4 particular case. In fact, the word verdict means in
5 Latin to speak the truth.

6 We believe that after you get done hearing all
7 the testimony from the State's witnesses and
8 reviewing all of the evidence, that you'll be able
9 to render a verdict that speaks the truth, which is
10 the defendants are guilty of all the crimes that
11 they have been indicted on.

12 Now, I would ask that you give both defense
13 attorneys in this case the same courtesy and
14 attention that you've given me. Thank you.

15 MR. SUTHERLAND: May it please the Court,
16 Judge?

17 THE COURT: Absolutely.

18 MR. SUTHERLAND: Ladies and gentlemen, again,
19 I'm fully vaccinated. My name is Tivis. I did
20 emphasize it the other day, because I haven't always
21 done this -- I've done this about 17, 18 years --
22 and in the first couple years, the first question I
23 get from jurors after a trial is, is it Tom, Tim,
24 Travis, Tavis? So I just decided to spike it at the
25 beginning of every trial so that if we do discuss

1 anything after the trial, it's not a
2 conversation-eater, it's all one way and it does
3 feel rude, you should know, that we just get past
4 that.

5 My people are from up in the mountains where
6 it's more common. If you head up 77 and get up to
7 where you go through the tunnels and hit up
8 Bluefield, West Virginia; you hook a left on 460,
9 drive about 45 minutes or so and you hit Virginia
10 State Road 80; you go in and just up and up,
11 literally, into the clouds, and that's where my
12 people are from.

13 There's more people named Tivis up there. My
14 great-grandpapa, he was born in 1890. And by the
15 time he was in his 20s -- you know, back then, you
16 could be a doctor pretty early -- he delivered about
17 6,000 babies up there, 11 in one house.

18 And, you know, back then, before the unions
19 came in, the United Mine Workers and everything,
20 everybody was pretty poor up there. So sometimes
21 the only thing that people could pay him with was
22 that name. So the name spreads out from up there.
23 But I haven't seen it anywhere else.

24 I'd like to thank you for coming today. I can
25 kind of imagine, not having always done this, what

1 it's like to -- it kind of reminds me of the MEPS in
2 the Army where you're first going in, you know,
3 you're first summonsed in and people are just
4 telling you what to do: Up, down, in, out, you
5 know, come in here, get picked, and everything. I
6 think if I was on the other side, I'd be wondering
7 what's important here.

8 There's really three things, I think. The
9 first thing is about opening statements. While the
10 Court has instructed you all that these opening
11 statements are not evidence, to me, it is one of the
12 most important parts of any trial, because it is the
13 first time that I hear, with precision, what the
14 government wants you to believe and how they intend
15 to get you to believe it. I know that might sound
16 strange, so I'll say it again. It's the first time
17 that I hear, with precision, what the government
18 wants you to believe, and how they intend to get you
19 to believe it, because what you just heard was a
20 theory.

21 Now, it is true that Jake is charged with
22 failure to stop for a blue light. He did not want
23 to go to trial on that. He did not want to waste
24 everybody's time. He admitted it. He admitted it.
25 He didn't stop. But we're going to have to go

1 through with it. And I will tell you, throughout
2 this trial, you should think about what beyond a
3 reasonable doubt means. But before I do that, I
4 want to do possession.

5 Possession is going to be real important. At
6 the end of the case, you know, you won't see these.
7 It may be hard to imagine that cigarettes are going
8 to be contraband, which is stuff you can't have,
9 which is what the drugs are. But, if you imagine,
10 they outlaw cigarettes, you all know that these are
11 mine. Right? Even if I put them there and I walk
12 all the way over here, those are still my
13 cigarettes. All right?

14 Even if I were to walk all the way out to the
15 back and, let's say, tobacco is illegal, and the ATF
16 comes in here and they see contraband in here and
17 they start arresting people, you all know that it's
18 mine, because you saw me put it down. Right?
19 Possession is something belonging to you.

20 I think they're going to talk to you about
21 constructive possession, which they're going to try
22 to say that because it was close to him and because
23 it was in the truck with him, that it somehow
24 belonged to him. Well, there's more to it than
25 that, and the Court is going to instruct you all on

1 that.

2 What you really have to believe -- he talked
3 about the burden of proof and beyond a reasonable
4 doubt a little bit. I like to simplify things. By
5 having done this for 17 years -- when I was in the
6 Army, I did a whole bunch of other stuff before --
7 if there's a real possibility that he's not guilty,
8 if there's a real possibility and it's just a
9 possibility that he's not guilty in this country, in
10 this state, in this county, we cut people loose.

11 So the question that I'm going to have, I
12 think, at the end, and I'll go ahead and start
13 laying it out there: Is it possible, is it possible
14 that Jake met Ms. Spurlock at a friend's house; that
15 they friended each other on Facebook, and Jake,
16 young, single Jake, single now, gets a call from her
17 asking him for a ride? Is it possible that he picks
18 her up, they're playing music, and she asks young,
19 single Jake if he will take her over by the house --
20 by her house -- she says I live right down there --
21 to check her mail, all right? Is it possible that
22 they get there and she gets her mail and, sure
23 enough, it's hers. It says [REDACTED] Ben Spires Road on
24 the mail, and you all heard that's where she was
25 evicted from.

1 And is it further possible that she asked him
2 to come inside and help her get some of her things?
3 Young, single Jake has high hopes under these
4 circumstances. He goes back with her. She says
5 they have to go around the back for some reason, and
6 young, single Jake isn't thinking about that. They
7 get to the back door and she says, oh, I don't have
8 my key with me, can you bump the door for me? It's
9 a trailer.

10 Is it possible that they bump the door and they
11 go inside and Jake sees her start grabbing baby
12 pictures, bags, in a place that clearly belongs to
13 her, to any person who was thinking and looking at
14 it? Baby pictures, her stuff all over the place.

15 And then is it further possible that while
16 she's gathering her things some, fellow comes up
17 and, you know, Jake is just standing there at the
18 window, and he's like what the boom are you all
19 doing here? Right?

20 Jake's confused. The homeowner says to Kelsay,
21 you're not supposed to be here. You're not supposed
22 to be here. Jake says to her, let's go. Right?

23 One of the elements of burglary is the intent
24 to commit a crime in a place. If he thinks it's her
25 place, it's not a burglary. You got to be planning

1 on breaking the law. You can enter without consent
2 and that's a different charge, but you have to have
3 the intent to commit a crime.

4 But what is this crime that he is supposed to
5 have been committing in what he thinks is her house
6 where she is grabbing her things right in front of
7 him? This is just not a burglary. And, just as a
8 technical matter, I'll tell you. They're saying
9 that she was evicted from this place, so that means
10 nobody was living there. Right? And if nobody is
11 living there, than it's a dwelling. And it's not a
12 burglary second degree, because burglary second
13 degree requires a dwelling and entry into a
14 dwelling.

15 So if the State's case is that she's a burglar
16 because she was evicted, well, then it's not a
17 dwelling, so it's not a burglary second degree. And
18 I didn't mean to get into that technical stuff, but
19 I'm just sort of pointing out some of the bigger
20 problems with this thing.

21 So let's say that they leave. Jake pulls up to
22 an intersection -- I think he went down 321 -- and
23 he sees a cop. And when he testifies -- we can't
24 talk about it right now, but it is possible that he
25 was not supposed to be driving. And I'll ask him

1 about that when he testifies. And after he
2 testifies, I'll bring the chief back to testify
3 about it.

4 So Jake sees the police officer. The police
5 officer is behind someone else and they've got their
6 blue lights activated. So Jake thinks after having
7 his high hopes dashed as far as single Jake goes,
8 his hopes come back up just a little bit when he
9 thinks the police officer is going to pull somebody
10 else over.

11 Well, the officer circles around behind him and
12 he steps on the gas. He did not stop. He failed to
13 stop for a blue light. And he wanted to plead
14 guilty to that and he did not want to go through
15 this and have y'all have to consider all this
16 evidence and all this stuff and make that decision,
17 but weirdly -- and I didn't know this until a few
18 years ago, the State, the government has a right to
19 a jury trial.

20 You know, I was in West Berlin when the
21 communism collapsed and the wall came down. You
22 know, I was like, what is this, the Soviet Union?
23 They've got a right to a jury trial? He wants to
24 enter a guilty plea and save us all a bunch of time
25 to consider this evidence. He just wants to come up

1 and say hey, I did this, I'm sorry. He wants to
2 plead guilty to what he did.

3 Now, we're here on the burglary --

4 MR. STORY: Your Honor, I'm going to object to
5 that. It's a misstatement of the law that he can't
6 plead guilty.

7 MR. SUTHERLAND: That's what happened.

8 THE COURT: I'm going to let him continue on.

9 MR. SUTHERLAND: Thank you, Your Honor.

10 THE COURT: Thank you, Mr. Story.

11 MR. SUTHERLAND: See, we have a bunch of rules
12 that he cannot run afoul of. So even if you
13 believe -- and it's hard for me to believe, I guess,
14 because it's not a theory to me. I know what
15 happened. I know Jake was excited to be driving
16 around with a young lady that was his type. He was
17 excited when she invited him to come inside to help
18 her get her stuff. I mean, he's just giving her a
19 ride somewhere. All of a sudden, she's asking him
20 -- and ladies, I'm sorry about this, but young men,
21 right, all of a sudden, she's asking him hey, go by
22 my house and get my mail. Hey, will you come inside
23 my house. Next thing you know, he's got the police
24 behind him and he's running.

25 It can't be a burglary second degree because

1 it's not a dwelling. It's their theory that she's
2 not supposed to be there because she was evicted.
3 Then under the law, it's not a dwelling, it's a
4 building. That's not a burglary second degree. He
5 didn't even know. He was going there for something
6 else that was not unlawful. And I'll just leave it
7 at that. He does not stop for the police and he'll
8 explain why when he takes the stand. But we're here
9 on this other stuff. He doesn't know anything about
10 this stuff. I even showed him a picture of it. He
11 has no idea.

12 So, ultimately, you know, talking about common
13 sense. To me, the simplest answer is the best. By
14 the time we get to the end of this thing, I think
15 with all the evidence laid out here where we can
16 talk about it and everything, I think y'all will
17 understand because it's real easy to understand.
18 This seems all complicated. They're hustling you
19 around and telling you what to do and stuff. It's
20 really pretty simple. In this country, in this
21 state, in this county, we cut people loose if
22 there's a real possibility that he's not guilty.
23 And there's just a bunch of possibilities because
24 he's not guilty.

25 So thank you for your time and your

1 consideration. It's getting too close, I'm a close
2 talker, but, again, I am vaccinated and not been
3 exposed or anything. Thank you very much for your
4 time and your consideration. I'll see you all
5 throughout this trial. I'm going to give you my
6 word, I'm not going to waste your time here. I'm
7 not going to ask a bunch of questions that nobody
8 cares about, I'm going to ask about important thing.
9 We're going to get to the end of this so we can talk
10 about more things. Thank you.

11 THE COURT: Thank you, Mr. Sutherland.

12 MR. SUTHERLAND: Yes, ma'am.

13 THE COURT: Mr. Story?

14 MR. STORY: May it please the Court?

15 THE COURT: Yes, sir.

16 MR. STORY: Opposing counsel.

17 Members of the jury, Kelsay Spurlock didn't
18 run. When officers got behind the white truck and
19 blue lighted it, flashed their blue lights and
20 sirens, she was not driving the truck that took
21 officers on a high speed chase throughout the Gaston
22 area. When the truck finally came to a stop after
23 this high speed chase by crashing into a group of
24 trees, she stayed in the truck. And after officers
25 came out, ordered her out of the car, she complied.

1 She didn't run.

2 Jake Fredrickson ran from law enforcement when
3 they flashed their blue lights and sirens. Jake
4 Fredrickson did not wait for law enforcement. He
5 ran from law enforcement out of the truck. And then
6 he ran and hid in a drainage pipe. And y'all are
7 going to see all that today.

8 So my client is charged with two counts,
9 burglary second. Y'all heard the State and Mr.
10 Sutherland both tell you what all that entails,
11 someone enters a dwelling without consent with
12 intent to commit a crime. Y'all are going to hear
13 testimony today that Ms. Spurlock had been evicted
14 from that home. Probably shouldn't have been there,
15 probably shouldn't have gone in. But she didn't
16 intend to commit a crime. And y'all are -- as
17 Mr. Sutherland and the State both told y'all, all of
18 those things are required for a burglary.

19 Now, as to the drugs, I want to say this:
20 There is going to be nothing, zero evidence
21 connecting Ms. Spurlock to those drugs, zero, except
22 for the fact that she was a passenger in the truck.
23 And the Judge is going to tell you that mere
24 presence is not enough to convict someone of
25 trafficking methamphetamine.

1 And the only other thing connecting her with
2 those drugs is apparently going to be, according to
3 Mr. Sutherland's opening, the statement of the
4 co-defendant. And as the Judge told y'all, y'all
5 are going to weigh the testimony of all the jurors
6 and y'all are going to determine whether that's
7 credible or not. I submit to you he's got a very,
8 very big motivation to lie.

9 But having said all that, I've got one more
10 thing to say. And if y'all don't remember anything
11 else I say throughout this entire trial, I want you
12 to please remember this, you are the judges of the
13 facts. The Judge told y'all that already. Mr.
14 Pogue told you that already. I believe Mr.
15 Sutherland touched on it. I'm telling you a fourth
16 time, you're the judges of the facts and y'all are
17 going to make all the determinations in this case.

18 I want y'all to remember this: When y'all were
19 being qualified, the Judge told y'all we have the
20 greatest judicial system in the world, and I agree
21 with that 100 percent. And the reason, the main
22 reason I agree with that is because in this country,
23 the people determine guilt or innocence.

24 I -- you know, I worry more and more every year
25 it seems like about new laws and the government's

1 interference in people's lives, but I'll tell you,
2 being a defense attorney really gives me a lot of
3 hope because I've tried a number of cases and it
4 doesn't matter at the end in deliberations what the
5 government's lawyer thinks and it doesn't matter
6 what law enforcement believes happened. It always
7 matters what you believe happened, what everyday
8 people from different ages, different backgrounds,
9 different parts of the country, different parts of
10 South Carolina, whether y'all decide the government
11 has met its burden beyond a reasonable doubt.

12 Y'all are not likely to agree on everything. I
13 mean, you can't get 12 people to agree on hardly
14 anything in this country and I, for one, think
15 that's one of the things that makes this country
16 great. And y'all don't have to agree on everything.
17 You're not going to agree about all the evidence or
18 all the testimony or certain parts of the evidence
19 or the testimony. But in the end, I believe you
20 will find Ms. Spurlock not guilty. Thank you.

21 THE COURT: Thank you, Mr. Story.

22 Mr. Pogue, you want to call your first witness?

23 MR. POGUE: Thank you, Your Honor. May it
24 please the Court. The State calls Mr. Steven
25 Watkins.

1 STEVEN WATKINS,

2 being first duly sworn, testified as follows:

3 THE WITNESS: I do.

4 THE CLERK: Once you take the stand, you can
5 take your mask off. Please state your name and
6 spell your last name for the record.

7 THE WITNESS: Steven Watkins, last name is
8 spelled W-A-T-K-I-N-S.

9 DIRECT EXAMINATION

10 BY MR. POGUE:

11 Q. Good morning, Chief Watkins.

12 A. Good morning.

13 Q. Where are you currently employed?

14 A. Gaston Police Department.

15 Q. I think I may have given this away in my
16 initial introduction to you, but what is your
17 current position there?

18 A. I'm the chief.

19 Q. And how long have you been employed in that
20 capacity as chief?

21 A. A little over a year now.

22 Q. And how long have you been employed in general
23 at Gaston PD?

24 A. Since 2013.

25 Q. In what capacity were you employed with Gaston

1 PD prior to you becoming a chief?

2 A. I was the major, the assistant police chief.

3 Q. Was that your position on October 3rd, 2019?

4 A. Yes, sir.

5 Q. Was that the date of this particular incident
6 that we're here for trial on?

7 A. Yes, sir.

8 Q. Okay. Just very briefly tell us a little bit
9 about your law enforcement background. Did you go
10 to the academy?

11 A. Yes, sir. I began my law enforcement career in
12 2007 with the City of Cayce. I graduated the police
13 academy in 2007. Shortly after, I went to the
14 Springdale Police Department prior to becoming
15 employed with Gaston Police Department and I've been
16 there ever since.

17 Q. Okay. All right. Take me to the date of this
18 incident, October 3rd, 2019, sometime after 2:00 in
19 the afternoon. What were you doing at that time?

20 A. I was at the -- currently at the police
21 department received a burglary in progress.

22 Q. Do you recall the address that you were going
23 to respond to?

24 A. [REDACTED] Ben Spires Road.

25 Q. [REDACTED] Ben Spires Road. Is that in Gaston?

1 A. Yes, sir, it's in the town limits of Gaston.

2 Q. So that is in your jurisdiction for the town
3 limits?

4 A. Yes, sir.

5 Q. Is that also within the Lexington County?

6 A. Yes, sir.

7 Q. So what did you do when the call came out?

8 A. I responded to -- towards the area of Ben
9 Spires Road, on U.S. 321 towards Ben Spires.

10 Q. Okay. Did anybody else with your department
11 that you were aware of respond along with you?

12 A. Yes, sir. I think Captain Poole was employed
13 at the time. He had a little bit of a delayed
14 response behind me, but he responded as well, myself
15 and Captain Poole.

16 Q. Now, are y'all an agency where y'all have --
17 you and a partner ride together or is it just you in
18 your own vehicle?

19 A. It's just us in our own vehicle.

20 Q. What kind of vehicle were you driving at the
21 time?

22 A. A Dodge Charger.

23 MR. POGUE: Beg the Court's indulgence.

24 THE COURT: Take your time.

25 MR. POGUE: Permission to approach the witness,

1 Your Honor?

2 THE COURT: Absolutely. Go ahead.

3 MR. SUTHERLAND: No objection, Your Honor.

4 MR. STORY: No objection at this time, Your
5 Honor.

6 (State's Exhibit No. 1 admitted into evidence.)

7 BY MR. POGUE:

8 Q. Chief Watkins, I am handing you up what's
9 premarked as State's Exhibit 1 for identification
10 purposes. Take a look at that for a second and tell
11 me if you recognize that particular area.

12 A. Yes, sir.

13 Q. Is that an aerial image of the area of Ben
14 Spires Road?

15 A. Yes, sir, it is.

16 Q. All right.

17 MR. POGUE: Permission to publish?

18 (State's Exhibit No. 2 marked for
19 identification purposes.)

20 BY MR. POGUE:

21 Q. Chief Watkins, I'm now handing you up what's
22 marked as State's Exhibit 2 for identification
23 purposes. Do you recognize that item?

24 A. Yes, sir, I do.

25 Q. What is that?

1 A. That's the dash cam video from my patrol car.

2 Q. How do you know that's what that is?

3 A. I've initialed it and signed it that I reviewed
4 it and that is my video.

5 Q. You've watched it and signed it?

6 A. Yes, sir.

7 Q. And is it a fair and accurate reflection of the
8 events that took place on October 3rd, 2019?

9 A. Yes, sir.

10 MR. POGUE: Your Honor, at this time, State
11 would move State's Exhibit 2 into evidence?

12 THE COURT: Any objection, Mr. Sutherland?

13 MR. SUTHERLAND: No, ma'am. If that's what I
14 got last night, we're good.

15 THE COURT: Mr. Story?

16 MR. STORY: No objection, Your Honor.

17 THE COURT: It's admitted.

18 (State's Exhibit No. 2 admitted into evidence.)

19 MR. POGUE: Permission to publish, Your Honor?

20 THE COURT: Yes, sir.

21 MR. POGUE: Beg the Court's indulgence.

22 THE COURT: Take your time.

23 Q. Before we get started, just briefly, Chief
24 Watkins, when you responded, did you -- well, let me
25 tell you what, let me go ahead and start the video

1 and we'll kind of go as we play the video, okay?

2 A. Okay.

3 (Video played.)

4 BY MR. POGUE:

5 Q. Were you leaving the police station there?

6 A. Yes, sir, I was.

7 (Video resumed.)

8 BY MR. POGUE:

9 Q. All right. Chief Watkins, without saying what
10 anybody told you, tell me what's going on right
11 here. What just happened?

12 A. I was taking a right-hand turn on Ben Spires
13 Road.

14 Q. Is that dirt road Ben Spires Road there?

15 A. Yes, sir, the dirt portion. And I observed a
16 white pickup truck coming off the dirt portion where
17 they had just advised us a burglary had taken place.

18 Q. Is this also in the town limits of Gaston where
19 we are right here?

20 A. Yes, sir.

21 Q. Is this also in Lexington County?

22 A. Yes, sir.

23 (Video resumed.)

24 BY MR. POGUE:

25 Q. Now, at this particular point in time, have you

1 initiated your blue lights and your sirens?

2 A. Yes, sir.

3 Q. Are you attempting to make a traffic stop at
4 this particular point in time?

5 A. Yes, sir.

6 Q. Again, this location right here, this is also
7 in Gaston town limits and also in Lexington County?

8 A. Yes, sir.

9 (Video resumed.)

10 BY MR. POGUE:

11 Q. Now, is this vehicle excessively speeding right
12 now in this particular area?

13 A. Not at this time, it is not.

14 (Video resumed.)

15 BY MR. POGUE:

16 Q. I'm going to stop it here. Chief Watkins, tell
17 me what it is you're doing at this particular point
18 in time?

19 A. At this point, I'm going to get beside the
20 vehicle. I've already made my determination the
21 vehicle is going to refuse to stop for law
22 enforcement and I am actually placing myself in a
23 position to perform a pit maneuver on the vehicle.

24 Q. Now, what is a pit maneuver?

25 A. That's when law enforcement who are certified

1 and trained to perform that maneuver can safely spin
2 out the vehicle to prevent a high speed pursuit from
3 continuing on. So it's a tool that we can use to
4 safely spin the vehicle out in a safe manner.

5 Q. To stop the vehicle, essentially?

6 A. Yes, sir.

7 (Video resumed.)

8 BY MR. POGUE:

9 Q. And what happens -- what happened when you
10 tried to perform the pit maneuver right there?

11 A. The vehicle abruptly slammed on the brakes to
12 prevent me from performing that maneuver.

13 (Video resumed.)

14 BY MR. POGUE:

15 Q. Now, I heard you say running about 75, is that
16 75 miles an hour?

17 A. Yes, sir, it is.

18 Q. What's the speed limit in this particular area?

19 A. In that area there, it's 40 miles an hour.

20 (Video resumed.)

21 BY MR. POGUE:

22 Q. Now, describe the vehicle like you were just on
23 the radio there. What is unique about this
24 particular vehicle?

25 A. I was tracking the vehicle. The taillights had

1 been spray painted black, so you could barely see
2 the taillights and had dark window tint on both
3 windows.

4 (Video resumed.)

5 BY MR. POGUE:

6 Q. Now, at this particular point in time, are
7 there other agencies involved or attempting to get
8 involved other than the Gaston Police Department in
9 the pursuit?

10 A. At this exact moment, myself and Captain Poole
11 are the only two involved in the actual physical
12 pursuit. There's other units responding to assist
13 us at this time.

14 Q. So there are other units responding?

15 A. Yes, sir.

16 (Video resumed.)

17 BY MR. POGUE:

18 Q. Now, I know we were just on this road, this is
19 a divided highway. Is that truck traveling in the
20 correct lane of travel in that particular lane?

21 A. No, sir. He's traveling against traffic at
22 this point on the wrong side of the road.

23 (Video resumed.)

24 BY MR. POGUE:

25 Q. That law enforcement vehicle we just passed,

1 what agency did that belong to?

2 A. That's Lexington County Sheriff's Department.

3 Q. Did the Lexington County Sheriff's Department
4 respond to this pursuit?

5 A. Yes, sir, they were assisting with stop sticks.

6 Q. How about Springdale Police Department?

7 A. Yes, sir.

8 Q. How about Swansea Police Department?

9 A. Yes, sir.

10 Q. How about Pelion Police Department?

11 A. Yes, sir.

12 Q. Is that the chief of police car that you
13 encountered on the dirt road?

14 A. Yes, sir, that was the Pelion police chief.

15 Q. How about the Highway Patrol, did they respond?

16 A. Yes, sir, they did.

17 (Video resumed.)

18 BY MR. POGUE:

19 Q. What time of day is this again?

20 A. It's around 3:00.

21 (Video resumed.)

22 Q. Were you trying to perform the pit maneuver
23 there?

24 A. I was attempting, yes, sir.

25 (Video resumed.)

1 Q. Okay. Chief Watkins, tell me what's going on
2 right here?

3 A. Here, I'm exiting my vehicle on foot and I'm
4 now going to run on foot and try to catch up to
5 where the truck went down the power lines.

6 Q. Did you feel you could pursue with your vehicle
7 past this point?

8 A. No, sir, I could not get through without
9 damaging my vehicle.

10 Q. Is that a public highway or road or anything
11 like that that the vehicle, the white truck has
12 proceeded into?

13 A. No, sir, that's private property, somebody's
14 residence there.

15 Q. Okay. At this point in time, do you -- did you
16 wear a dash cam at the time of this incident?

17 A. Yes, sir.

18 Q. Did you have that activated at the time?

19 A. Yes, sir.

20 Q. I'm sorry, I think I said dash cam. I meant to
21 say body cam?

22 A. Body camera, yes, sir.

23 (State's Exhibit No. 3 marked for
24 identification purposes.)

25 MR. SUTHERLAND: No objection.

1 MR. STORY: No objection, Your Honor.

2 MR. POGUE: Permission to approach?

3 THE COURT: Absolutely.

4 Let me ask, I know my court reporter needs a
5 break. Would this be a good time to take a break?

6 MR. POGUE: I think it would be perfect, Your
7 Honor.

8 THE COURT: Okay. Mr. Foreman, I'm going to
9 let y'all go back. We're going to take a 15-minute
10 break and come back. There's no talking about this
11 case while you're in the jury room, even amongst
12 yourselves. You're allowed to use your cell phones
13 while you're in the jury room during breaks, but
14 don't bring them back out here, okay? Just
15 remember, if you've got your cell phones, you don't
16 look up anything you've heard in this courtroom on
17 social media.

18 All right, we'll be in recess for 15 minutes.

19 (The jury exits the courtroom at 11:06 AM.)

20 THE COURT: Chief, I'm going to have to leave
21 you on the stand. I can't let you speak to anyone.

22 THE WITNESS: Yes, ma'am.

23 THE COURT: All right. We're in recess 15
24 minutes.

25 (Short recess.)

1 THE COURT: All right. Let's bring them in.

2 (The jury enters the courtroom at 11:27 AM.)

3 THE COURT: All right. Mr. Foreman, is the
4 jury ready?

5 THE FOREMAN: Yes, ma'am.

6 THE COURT: Let's proceed.

7 MR. POGUE: Thank you, Your Honor.

8 BY MR. POGUE:

9 Q. Chief Watkins, I'm now handing you what's
10 marked as State's Exhibit No. 3 for identification
11 purposes. Do you recognize that item?

12 A. Yes, sir, I do.

13 Q. What is that?

14 A. That's my body camera that I was wearing that
15 day.

16 Q. Is that a copy of the video?

17 A. Yes, sir, it is.

18 Q. And the video, did you have a chance to review
19 it?

20 A. Yes, sir.

21 Q. Did you initial the disc?

22 A. Yes, sir, I did. I initialed and dated it.

23 Q. Is it a fair and accurate reflection of the
24 events that took place during the time of this
25 incident?

1 A. Yes, sir.

2 MR. POGUE: Your Honor, at this time, the State
3 would move State's Exhibit No. 3.

4 THE COURT: My understanding without objection?

5 MR. SUTHERLAND: As long as it's the same thing
6 I got last night, no objection.

7 THE COURT: Mr. Story?

8 MR. STORY: No objection.

9 THE COURT: Same thing they received last
10 night, Mr. Pogue, right?

11 MR. POGUE: That's correct, Your Honor.

12 THE COURT: It's admitted.

13 (State's Exhibit No. 3 admitted into evidence.)

14 BY MR. POGUE:

15 Q. I'll take this one out and switch over to the
16 dash cam. Just to review, was your testimony that
17 you had just exited your vehicle at that point in
18 the dash camera video?

19 A. Yes.

20 (Body cam video played.)

21 Q. Chief, where the video started right here, was
22 that earlier on in the pursuit?

23 A. Yes, sir.

24 Q. Did you cut the body camera on, obviously, in
25 your vehicle prior to exiting the vehicle?

1 A. Yes, sir.

2 MR. POGUE: For time's sake, Your Honor, unless
3 there's any objection, I'm just going to skip
4 forward to the part where he gets out of his
5 vehicle.

6 THE COURT: Any objection, Mr. Sutherland?

7 MR. SUTHERLAND: None at all.

8 THE COURT: Mr. Story?

9 MR. STORY: No, Your Honor.

10 THE COURT: Okay.

11 (Video resumed.)

12 BY MR. POGUE:

13 Q. Is this the point that we left off on the dash
14 cam video right here?

15 A. Yes, sir, it is.

16 Q. Just to clarify, the entire pursuit that took
17 place prior to this, from the time you blue lighted,
18 did that all take place in Lexington County?

19 A. Yes, sir, it did.

20 Q. This address right here where you are now, do
21 you know what the address is here?

22 A. I don't recall the actual physical address.

23 Q. Do you remember the road that you were off of?

24 A. Woodrow Boone, it's a Woodrow Boone address.

25 Q. Is that in Lexington County?

1 A. Yes, sir, it is.

2 (Video resumed.)

3 Q. At this point, do you have your service weapon
4 pulled?

5 A. I do.

6 Q. Is that for your safety?

7 A. Yes, sir, it is.

8 (Video resumed.)

9 Q. When you're referring to dog, what are you
10 talking about there?

11 A. Captain Poole was a K9 handler at that time and
12 I was requesting for his K9 to be brought up.

13 Q. Is it a tracking dog?

14 A. Sir?

15 Q. Is it a tracking dog?

16 A. Yes, sir, it is.

17 (Video resumed.)

18 BY MR. POGUE:

19 Q. At this point in time, tell us what's going on?

20 A. I made contact with the vehicle. I observed a
21 passenger still inside the vehicle. And we were
22 advising her to step out of the vehicle at the time.

23 Q. Could you clearly see inside the vehicle?

24 A. I could see that there was somebody inside the
25 vehicle. It was dark window tint. When they opened

1 the door, obviously, we could see.

2 Q. From your view prior to them opening the door,
3 did the tint obscure your view into the vehicle?
4 Could you tell what the person inside the car was
5 doing?

6 A. They were sitting there.

7 (Video resumed.)

8 Q. Who was that other officer that we saw in the
9 video?

10 A. That was Officer Arturo Contreras.

11 Q. At the time, was he with Gaston Police
12 Department?

13 A. No, sir.

14 Q. What agency was he with?

15 A. At that time, he was with Swansea Police
16 Department.

17 Q. When you approached the vehicle, did you see
18 any other individual besides the person sitting
19 inside the vehicle?

20 A. Not upon our approach. I knew that the driver
21 had already taken off across the field here. I did
22 observe that.

23 Q. Okay. So you saw that prior to you getting
24 closer to the vehicle?

25 A. Yes, sir.

1 Q. So what are you doing now?

2 A. Now, I'm going over that fence to proceed to
3 the area that he had went and try to locate him as
4 well.

5 Q. Did you leave the -- let me ask you this: The
6 passenger that was in that vehicle, did you later
7 determine the identity of that particular
8 individual?

9 A. Yes, sir, I did.

10 Q. Who was that?

11 A. Kelsay Spurlock.

12 Q. Do you see Kelsay Spurlock, the individual that
13 was a passenger in that vehicle, in the courtroom
14 today?

15 A. I do.

16 Q. Could you please point her out?

17 A. The far left over there.

18 MR. POGUE: Your Honor, I'd like the court
19 reporter to note for the record that the officer has
20 identified the co-defendant, Kelsay Spurlock.

21 THE COURT: So noted.

22 Q. Just so I understand, at this point in time,
23 you're now pursuing the male driver?

24 A. Yes, sir.

25 (Video resumed.)

1 Q. Okay. Now, you indicated when you had left
2 your vehicle that was a residence off of, what was
3 the road?

4 A. Woodrow Boone.

5 Q. Where have you walked to now?

6 A. I just came out onto Mimosa Drive.

7 Q. Is that also in Lexington County?

8 A. Yes, sir, it is.

9 (Video resumed.)

10 Q. Okay. What are you doing at this particular
11 time?

12 A. I'm holding the air that I last observed the
13 suspect that I was pursuing and just waiting for
14 more units to arrive.

15 Q. Are you attempting to contact other agencies?

16 A. Yes, sir, they're en route to my location right
17 now.

18 Q. Okay.

19 (Video resumed.)

20 BY MR. POGUE:

21 Q. Who was that officer that you're speaking to
22 right there?

23 A. That's Captain Poole.

24 Q. Is he with the Gaston PD?

25 A. He's not currently. He was at the time of the

1 incident, yes, sir.

2 Q. My apologies. Was he at the time?

3 A. Yes, sir.

4 (Video resumed.)

5 Q. Now, did you later learn the identification of
6 the individual that you pulled from that culvert?

7 A. I did.

8 Q. Was that -- who was that individual?

9 A. Jake Fredrickson.

10 Q. Do you see Jake Fredrickson in the courtroom
11 today?

12 A. I do.

13 Q. Could you please identify him?

14 A. Sitting right there.

15 MR. POGUE: Your Honor, I'd ask the record to
16 reflect that the witness has identified the other
17 co-defendant in this particular case, Jake
18 Fredrickson.

19 THE COURT: So noted for the record.

20 BY MR. POGUE:

21 Q. What are you doing right now, Chief, going back
22 into the culvert? What are you attempting to do?

23 A. I'm attempting to see if there's anything that
24 was possibly placed in the pipe while he was in
25 there that he left.

1 (Video resumed.)

2 Q. Just to clarify, the individual that you pulled
3 out that you identified as Jake Fredrickson, the
4 co-defendant here, was that the same individual that
5 you saw flee from the truck and run up towards
6 Mimosa Drive?

7 A. Yes, sir.

8 Q. And during the course of this pursuit and when
9 he flees from the vehicle on foot, would it have
10 been possible for him to have something on his
11 person and throw it away or throw it to the side
12 without you having seen that?

13 A. Yes, sir.

14 (Video resumed.)

15 Q. I don't think I've asked you this yet: But,
16 obviously, you've already testified this was October
17 3rd, 2019. It's 3:00 in the afternoon
18 approximately. Was it hot that day? Was it cold
19 that day? Sometimes it's hard to know in October in
20 South Carolina.

21 A. It was really hot that day.

22 Q. Okay. What are you doing right now?

23 A. I'm talking to other officers about where we --
24 where he was located and where the actual vehicle
25 was located that he fled from to try to get them to

1 go back over there and assist with that.

2 (Video resumed.)

3 Q. Okay. And did you cut your body camera off
4 there?

5 A. I did.

6 Q. And why did you cut your body camera off there?

7 A. I felt that I was becoming overheated at that
8 point -- as you can hear in the video, I was pretty
9 out of breath and becoming overheated and drinking
10 water. The camera is attached to the vest, so when
11 I took my vest off, the camera was attached to that
12 vest.

13 Q. All right. At that particular point in time,
14 as far as your knowledge, were both co-defendants in
15 custody?

16 A. Yes, sir.

17 Q. At that point in time, did you have any
18 potential knowledge of any potential contraband that
19 may be in the vehicle?

20 A. Not at that time, no, sir.

21 Q. Okay. So at this point in time, tell us what
22 happened next. What did you do after this?

23 A. I made my way back over to the vehicle where it
24 actually wrecked into the wood line and crossed the
25 fences and made contact with the other officers that

1 were back over that way.

2 Q. Okay. And who was -- who was over there when
3 you -- do you recall anybody that was over there
4 when you walked back to the truck?

5 A. I believe Officer Arturo Contreras was over
6 there at that time.

7 Q. Is that who you had left Kelsay Spurlock with?

8 A. Yes, sir.

9 Q. And he was still by the truck?

10 A. Yes, sir, to my knowledge, yes, sir.

11 Q. Okay.

12 MR. POGUE: Beg the Court's indulgence.

13 THE COURT: Take your time.

14 MR. STORY: Your Honor, if we could have a
15 brief side bar?

16 THE COURT: Sure.

17 (Sidebar conference.)

18 BY MR. POGUE:

19 Q. Chief, do y'all have a policy in regard to
20 whether y'all tow a vehicle or not that's involved
21 in the particular that have jurisdiction over?

22 A. Yes, sir.

23 Q. And in this particular case, what did that
24 policy dictate?

25 A. Any vehicle that we're going to tow, we're

1 going to obviously complete an inventory on it.
2 This one was involved in a vehicle pursuit. The
3 owner wasn't present, so we'd tow that vehicle and
4 perform an inventory on it.

5 Q. Did you conduct an inventory search of this
6 vehicle?

7 A. We did.

8 Q. Okay.

9 (State's Exhibit Nos. 4 - 11 marked for
10 purposes of identification.)

11 MR. POGUE: Permission to approach, Your Honor?

12 THE COURT: Absolutely.

13 Q. Chief Watkins, I'm handing you up what's marked
14 as State's Exhibits 4 through 11. Could you take a
15 moment and look at those items and tell me if you
16 recognize those?

17 A. Yes, sir, I do.

18 Q. And what are they?

19 A. Pictures that were taken the day of the
20 incident.

21 Q. Okay. And what are the photos images of?

22 A. The perimeter of the truck, including the tag
23 and the interior contents we could see from the
24 outside of the truck.

25 Q. All right. And were all of these photos a fair

1 and accurate reflection of the events as they

2 appeared that day?

3 A. Yes, sir.

4 MR. POGUE: At this time, Your Honor, the State
5 would move State's 4 through 11 into evidence?

6 THE COURT: Any objection?

7 MR. SUTHERLAND: No objection.

8 THE COURT: Mr. Story?

9 MR. STORY: None, Your Honor.

10 THE COURT: They're admitted.

11 (State's Exhibit Nos. 4 through 11 admitted
12 into evidence.)

13 MR. POGUE: Permission to publish, Your Honor?

14 THE COURT: Absolutely.

15 BY MR. POGUE:

16 Q. Chief, do you have the laser pointer up there?

17 A. Yes, sir.

18 Q. This is State's Exhibit 4. Tell us what we're
19 looking at.

20 A. That's going to be the driver's side front of
21 the vehicle, picture taken.

22 Q. What are the black marks on the vehicle there?

23 A. That's what they call raising stripes or black
24 stripes painted on the vehicle.

25 Q. Did they appear to be factory or did they

1 appear to be something done by not a professional?

2 A. Right, that would have been done afterwards.

3 Q. State's Exhibit 5. Is that the -- just a
4 different angle?

5 A. Yes, sir. Passenger side front, looking down
6 passenger side.

7 Q. Okay. State's Exhibit 6?

8 A. Be the rear of the vehicle, the tag that was
9 displayed at the time of the stop.

10 Q. Okay. State's Exhibit 7?

11 A. It's more of a rear passenger side with the
12 door that's open.

13 Q. You have the laser pointer?

14 A. Yes, sir.

15 Q. What is this black? Is that paint?

16 A. That's where the taillights had been painted
17 and that's paint over spray.

18 Q. Okay. All right. Now, State's Exhibit 8, what
19 are we looking at here?

20 A. That's going to be the interior of the vehicle
21 from the outside view from where we were standing.

22 Q. Okay. What is this right here? This side?

23 A. That's a pack of cigarettes with a small baggy
24 of crystal-like substance in it there.

25 Q. Okay. And what is this -- is this a bag right

1 here, like a cooler-type bag?

2 A. Yes, sir. It's a cooler-type bag, got
3 obviously the silver lining reflection in it that
4 makes it a cooler bag.

5 Q. Okay. And State's Exhibit 9, is that just a
6 closer view of what was sitting in the seat?

7 A. Yes, sir, that's correct.

8 Q. This is the crystal substances you were talking
9 about?

10 A. Yes, sir.

11 Q. All right. State's Exhibit 10, what are we
12 looking at here?

13 A. The interior contents of the cooler bag. We
14 observed a larger bag of a crystal-like substance.

15 Q. Okay. Going back to State's Exhibit 8, is this
16 bag here with the yellow trim, is that the same bag
17 we see the contents of in State's Exhibit 10?

18 A. Yes.

19 Q. Is it roughly in between the two seats?

20 A. Yes, sir.

21 Q. What are these items right here?

22 A. That's miscellaneous mail from the [REDACTED] Ben
23 Spires Road.

24 Q. The mail was addressed to [REDACTED] Ben Spires Road?

25 A. Yes, sir.

1 Q. Did y'all take that mail into evidence?

2 A. No, sir, we just reviewed it. We didn't
3 physically take it into evidence.

4 Q. Okay. If you had taken it, did you give it
5 back?

6 A. Yes.

7 Q. State's Exhibit 11, what is this we're looking
8 at here?

9 A. That's going to be the larger bag that we
10 removed from the cooler bag, just in a hand to see
11 the size of it.

12 Q. The same bag that we saw in State's Exhibit 10?

13 A. That's correct. That right there is actually
14 what's going to be in the hand right there.

15 Q. Were there any other items that were recovered
16 from the vehicle that you recall?

17 A. A digital scale.

18 Q. A digital scale. Now, going back to State's
19 Exhibit 10 -- pardon me, State's Exhibit 8, if you
20 are -- I assume you entered the vehicle when you
21 searched the vehicle?

22 A. Yes, sir.

23 Q. When you were in the vehicle, if you're sitting
24 in the driver or passenger's seat, are you able to
25 see the contents in the bag?

1 A. Yes, sir.

2 Q. If you looked down, would you be able to see
3 the bag of meth that was in that bag?

4 A. Yes, sir.

5 MR. POGUE: Beg the Court's indulgence.

6 Q. So the drugs that we saw in the -- well, the
7 suspected drugs that we saw in State's Exhibit 11,
8 did you collect those items?

9 A. Yes, sir.

10 Q. How do you package them, so to speak?

11 A. We remove them from the vehicle and place them
12 into an evidence bag to take to the actual police
13 department.

14 Q. Does that evidence bag have a particular name
15 that it goes by?

16 A. We would place it in our BEST kit.

17 Q. BEST kit. And does the South Carolina -- the
18 State Law Enforcement Division, do they typically
19 print and issue those bags to agencies to collect
20 narcotics and contraband?

21 A. Yes, sir.

22 Q. Did you bring to court with you the items that
23 you -- the suspected narcotics that you collected
24 from the vehicle that day?

25 A. I did.

1 Q. Do you have them with you now?

2 A. Yes, sir.

3 MR. POGUE: Permission to approach, Your Honor?

4 THE COURT: Yes, sir.

5 MR. SUTHERLAND: No objection, Your Honor.

6 THE COURT: Mr. Story?

7 MR. STORY: No objection. No objection for
8 identification, but --

9 THE COURT: Right. I'm going to let him lay
10 his foundation.

11 BY MR. POGUE:

12 Q. Chief Watkins, I've the package that you
13 brought with you up to the clerk of court and she
14 has premarked the label State's Exhibit 12. Is this
15 the bag with the Best kit that you collected with
16 the items taken from the vehicle on October 3rd,
17 2019?

18 A. Yes, sir, it is.

19 Q. Is there a way that you're able to identify
20 that that's the bag that you collected on that
21 particular date?

22 A. Yes, sir. Each bag actually comes with a BEST
23 kit number with a receipt that we tear off and keep
24 for our records. And I have both -- the numbers are
25 the same.

1 Q. Okay. So each bag has a unique identification
2 number on it?

3 A. Yes, sir.

4 Q. What is the BEST kit number for that particular
5 bag?

6 A. This one is B252831.

7 Q. Okay. All right.

8 MR. POGUE: Your Honor -- well, excuse me.

9 Q. When you collected the bag and you marked it,
10 what did you do with the bag after that?

11 A. We placed it into what we call the evidence
12 drop at the police department.

13 Q. Okay. Now, obviously, you've got a good bit
14 going on. Did you take it immediately or did you
15 have other matters that you had to attend to related
16 to the case before you took this back to the police
17 department?

18 A. Obviously, we would have some other matters
19 from this incident that we addressed first before we
20 actually physically drove it straight to the police
21 department.

22 Q. Okay. But from the time that you took it from
23 the vehicle and put it in the bag, the BEST kit, was
24 it in your sole care, custody and control until the
25 time that you put it into the evidence drop at the

1 Gaston Police Department?

2 A. Yes, sir, it was.

3 Q. Do y'all keep what's called a chain of custody
4 at the Gaston Police Department?

5 A. Yes, sir.

6 Q. Do you have the chain of custody as it relates
7 to this case?

8 A. Yes, sir.

9 Q. Can you tell me when it was that you did put
10 that BEST kit into the drop box at the Gaston police
11 department?

12 A. The evidence drop was timed at -- on the same
13 day 10/3 of '19 at 8:05 -- at 2005 hours, that's how
14 it was labeled, which is 8:05 p.m.

15 Q. Okay. And after you put it into the evidence
16 drop box, according to your records, where was
17 the -- what happened to the BEST kit after that?

18 A. Capital Poole was the actual evidence custodian
19 at the time. He does all the I-lab stuff at SLED
20 for narcotics testing. He would remove it and enter
21 it into what they call prelog, which is prelogging
22 it in for SLED's testing.

23 Q. Okay. And what took place in regard to actions
24 involving the BEST kit after that?

25 A. Captain Poole dropped it off at SLED, or State

1 Law Enforcement Division, for testing on 10/7/2019

2 at nine o'clock in the morning.

3 Q. Okay. And did you -- after -- was it Captain
4 Poole, you said?

5 A. It was Captain Poole, yes, sir.

6 Q. After Captain Poole dropped it off at SLED for
7 testing, did he ever return or did someone else from
8 your agency return to pick it back up after testing?

9 A. Captain Poole did on July 17th of 2020 at two
10 o'clock.

11 Q. Okay.

12 A. He picked it up from SLED.

13 Q. And then what did he do with it after he picked
14 it up from SLED?

15 A. Returned it to the Gaston Police Department
16 evidence drop on the same date, July 17th, 2020, at
17 three o'clock. So it was placed back into evidence,
18 where it's been located since.

19 Q. And since he put it back into the evidence
20 locker on July 17th, 2020 at three o'clock, has it
21 been in your sole care, custody and control until
22 you brought it to court today?

23 A. Yes, sir, it has.

24 Q. Now, where that vehicle was crashed, and I say
25 that vehicle, I'm talking about the truck that the

1 co-defendant, Jake Fredrickson, and Kelsay Spurlock
2 were driving and riding in respectively, that crash,
3 was that in Lexington County, that vehicle?

4 A. Yes, sir, it was.

5 Q. Where you recovered and did this inventory
6 search, was that in Lexington County?

7 A. Yes, sir.

8 Q. How did y'all eventually get the truck out of
9 the woods? Did the tow truck back up in there and
10 get that out?

11 A. A tow truck came to the -- where you see that I
12 exited by patrol car and began on foot, a tow truck
13 responded there, but they had to call in -- get a
14 tractor to actually pull it back out down the power
15 lines to where the tow truck could get to it.

16 Q. Just to make sure I understand. A tractor had
17 to pull it from where it last crashed or where it
18 rested to a place where the tow truck would be able
19 to access it and tow it?

20 A. Yes, sir.

21 Q. All right. And was the truck towed?

22 A. Yes, sir, it was.

23 Q. Okay. Now, did you -- you testified previously
24 that both co-defendants were taken into custody. Do
25 you know who transported them to --

1 MR. STORY: Objection, Your Honor. That photo
2 is not in evidence.

3 MR. POGUE: I apologize, Your Honor.

4 Q. At that point in time, were you aware of who
5 transported them to the -- or who transported them
6 from the scene, I should say?

7 A. From the scene to the jail or --

8 Q. Correct.

9 A. It was going to be two officers with the
10 Springdale Police Department.

11 Q. Okay. All right. And do you recall their
12 names?

13 A. Captain Manuel and Officer Hagins.

14 Q. Were they just assisting in this particular
15 case or were they involved in an investigatory
16 nature?

17 A. They were assisting us, just assisting at that
18 time.

19 Q. Gaston Police Department, is it a large agency,
20 is it a small agency?

21 A. Smaller agency.

22 Q. How many employees total do you have?

23 A. Right now, we have eight. At the time, we only
24 had four.

25 Q. Okay. And do you have to wear a lot of hats

1 when you work at the Gaston Police Department?

2 A. Absolutely. With only four people, we have to
3 take bigger tasks than the larger agencies.
4 Usually, one of us is only working at a time, so
5 that person has to wear a lot of hats.

6 Q. Okay. After the truck was towed and the
7 co-defendants were transported, what did you do
8 after that?

9 A. Myself and Captain Poole responded back to Ben
10 Spires Road and made contact with the victims from
11 the burglary.

12 Q. Okay. Do you recall the victim's name in that
13 particular case, who owned the residence?

14 A. Mr. Spires is what I remember making contact
15 with. I don't know his first name.

16 Q. You said you spoke with him?

17 A. I did.

18 Q. Okay. Did you inspect the property at 205 Ben
19 Spires Road?

20 A. We did.

21 Q. Okay. All right. When you arrived at 205 Ben
22 Spires Road -- first of all, is that in Lexington
23 County?

24 A. Yes, sir, it is.

25 Q. Is that in the Gaston PD municipal

1 jurisdiction?

2 A. Yes, sir.

3 Q. Was that the location the originally burglary
4 was called out for?

5 A. Yes, sir.

6 Q. All right. And what did you notice when you
7 inspected the property?

8 A. That the back door had been forcibly opened.

9 Q. Okay. And did you notice anything about the
10 front door?

11 A. There was still a -- the notice of eviction on
12 the front door.

13 (State's Exhibit Nos. 13 through 16 marked for
14 identification purposes.)

15 Q. Okay. Chief, I'm handing you up what's
16 premarked as State's Exhibits 13 through 16. Would
17 you take a look at these items and tell me if you
18 recognize them.

19 A. Yes, sir, I do.

20 Q. And what are they?

21 A. They're pictures from the residence that were
22 taken of the notice of eviction on the front door
23 and the damage to the back door.

24 Q. Are they a fair and accurate reflection of the
25 property on October 3rd, 2019?

1 A. Yes, sir, they are.

2 MR. POGUE: Your Honor, at this time, State
3 moves Exhibits 13 through 16 into evidence.

4 THE COURT: Mr. Sutherland?

5 MR. SUTHERLAND: No objection, Your Honor.

6 THE COURT: Mr. Story?

7 MR. STORY: No objection, Your Honor.

8 THE COURT: They're admitted.

9 (State's Exhibit Nos. 13 through 16 admitted
10 into evidence.)

11 MR. POGUE: Thank you, Your Honor. Permission
12 to publish?

13 THE COURT: Yes, sir.

14 Q. State's Exhibit 13, what are we looking at
15 here?

16 A. That's what we observed on the front door of
17 the residence, notice of eviction.

18 BY MR. POGUE:

19 Q. That's what faces the access road of the
20 property?

21 A. Yes, sir.

22 Q. All right. And State's Exhibit 14?

23 A. That's going to be the rear door of the
24 residence.

25 Q. Okay. State's Exhibit 15?

1 A. Just a different view of the rear door.

2 Q. Okay. And State's Exhibit 16?

3 A. A different view once again.

4 MR. POGUE: No further questions, Your Honor.

5 THE COURT: All right. Who's going to go
6 first? Mr. Sutherland? Mr. Story?

7 MR. STORY: I believe age before beauty, Your
8 Honor.

9 THE COURT: Mr. Sutherland, that leaves you.

10 MR. SUTHERLAND: Yes, ma'am, it sure does.

11 CROSS-EXAMINATION

12 BY MR. SUTHERLAND:

13 Q. Chief, I don't have a bunch of questions for
14 you. Some of them we're going to have to talk about
15 later, like about court and talking to Jake.
16 Watching that video, it's a long one. And I believe
17 you testified that before the pit maneuver on the
18 vehicle that he wasn't speeding; is that correct?

19 A. I don't remember the actual speed. I think I
20 said it didn't look excessive at the time.

21 Q. Okay, didn't look excessive. And then when you
22 did the pit, it just sort of took off?

23 A. Well, I didn't perform the pit, but --

24 Q. Well, I mean, went in there --

25 A. Right, right, never made contact.

1 Q. And shoot, let me think, the bag. In the bag
2 was mail?

3 A. Yes, sir.

4 Q. And we haven't heard from chemist yet, so
5 potentially dope in the bag?

6 A. Yes, sir.

7 Q. And where did you find the scale?

8 A. The scale was somewhere on her property. I
9 don't recall exactly where it was.

10 Q. So was in the bag, wasn't in the bag?

11 A. I don't recall exactly where it was.

12 Q. And you did not charge Jake with that scale?

13 A. No, sir.

14 MR. STORY: Objection.

15 MR. POGUE: Your Honor, may we approach?

16 (Sidebar conference.)

17 BY MR. SUTHERLAND:

18 Q. Never mind on that. Let me ask you, I was
19 watching that video and it seemed like you were
20 getting ready to go, right, and then just all of a
21 sudden turned. Did you get some sixth sense or
22 something to go back and look in that drain?

23 A. At that point, I can't tell you what told me to
24 do it.

25 Q. It was just interesting because I saw you

1 walking away and then you kind of -- and it's
2 probably a good thing because y'all would have let
3 the dog loose if you didn't find him, right?

4 A. Tracking dog, yes, sir.

5 Q. Okay, but still. I think that's it until
6 later. Thank you.

7 MR. SUTHERLAND: No further questions, Your
8 Honor.

9 THE COURT: Mr. Story.

10 CROSS-EXAMINATION

11 BY MR. STORY:

12 Q. Good afternoon, Chief Watkins.

13 A. Good afternoon.

14 Q. So let's go back to that chase. You don't
15 remember exactly how high, how fast you were going,
16 right?

17 A. I know the speeds were in excess -- between 70
18 and 90 miles per hour is pretty much the highest we
19 would proceed.

20 Q. So between 70 and 90 miles an hour. And the
21 truck was going all over the road, correct?

22 A. Yes, sir.

23 Q. At one point, you were pursuing him going in
24 the wrong direction, correct?

25 A. Yes, sir.

- 1 Q. Other cars were moving out of the way?
- 2 A. Yes, sir.
- 3 Q. And then while you were chasing them at the
- 4 high rate of speed, the truck turned off into a dirt
- 5 road, right?
- 6 A. Yes, sir.
- 7 Q. Actually, more than once?
- 8 A. Right. Right.
- 9 Q. You went from the highway to a dirt road, back
- 10 on the highway, back into a dirt road?
- 11 A. Correct.
- 12 Q. And then you actually went into a resident's
- 13 property, right?
- 14 A. Yes, sir.
- 15 Q. And at that point, you actually lost the truck.
- 16 And that was in the woods, correct?
- 17 A. Right. Right.
- 18 Q. And then the truck finally came to a stop as it
- 19 crashed into some small trees?
- 20 A. Yes, sir.
- 21 Q. And then, of course, you observed from a
- 22 distance, Mr. Fredrickson fleeing the truck?
- 23 A. Correct.
- 24 Q. And at that time, it's been your testimony that
- 25 you could see someone else in the passenger side?

- 1 A. Yes, sir.
- 2 Q. And that person sitting there, right?
- 3 A. Yes, sir.
- 4 Q. And so then, of course, we saw that you ordered
- 5 that person out of the truck?
- 6 A. Yes.
- 7 Q. That you later identified as Ms. Spurlock?
- 8 A. Yes, sir.
- 9 Q. And she complied?
- 10 A. Yes, sir.
- 11 Q. And she came out of the passenger's side?
- 12 A. That's correct.
- 13 Q. And at one point, you -- the truck went out
- 14 across a field, right?
- 15 A. Yes, sir.
- 16 Q. I heard you radio that?
- 17 A. Yes, sir.
- 18 Q. Obviously, that wasn't a paved or dirt road,
- 19 that was off road?
- 20 A. Correct.
- 21 Q. You said something towards the end. You called
- 22 out when you were actually looking for Mr.
- 23 Fredrickson in the ditch, I recall you saying one
- 24 bush bond, right? Could you explain to the jury a
- 25 little bit what a bush bond is?

1 A. A bush bond is a term we use when somebody
2 exits a vehicle and flees on foot. It's just a term
3 that's used.

4 Q. And you were referring to Mr. Fredrickson as
5 the bush bond?

6 A. That's correct.

7 Q. Because he fled?

8 A. Yes, sir.

9 Q. Okay. So then you went back and you began to
10 look through the vehicle, right? You found a couple
11 baggies. And just so the jury knows, you were not
12 the first one to look through the vehicle, correct?
13 Is that your understanding?

14 A. Not to my knowledge. I was over on Mimosa.

15 Q. When you arrived, after you turned your body
16 camera off, there were already other officers there
17 looking through the vehicle?

18 A. I don't -- I don't recall.

19 Q. You don't recall?

20 A. I don't recall if there were or not.

21 Q. When you got there, was the door open?

22 A. Yes.

23 Q. And Ms. Spurlock was out of the vehicle?

24 A. That's correct.

25 Q. And there were, at least, two other officers on

1 the scene?

2 A. Yes, sir.

3 Q. And you did not personally recover the scales
4 that were mentioned, right?

5 A. I don't recall if myself or Captain did.

6 Q. You don't recall where they were?

7 A. I don't recall.

8 Q. I want to briefly turn your attention to what's
9 already in evidence as State's Exhibit 8. You
10 previously testified that this photo was --
11 represented how you saw the truck when you arrived,
12 right? And you noticed this pack of cigarettes was
13 already sitting on the seat?

14 A. Right.

15 Q. So was this baggy. There's a number of items
16 in this vehicle, correct?

17 A. Yes, sir.

18 Q. You notice -- did you see the keys on the
19 driver's side?

20 A. I --

21 MR. STORY: If I could approach, Your Honor?

22 THE COURT: You may.

23 Q. Do you see keys, sort of in the middle?

24 A. There's a set of keys there.

25 Q. Okay. Now, you observed the drugs in this

- 1 black bag, correct?
- 2 A. That's correct.
- 3 Q. It was black with a foil lining?
- 4 A. That's correct.
- 5 Q. And it's right below the -- sort of in the
- 6 middle, right?
- 7 A. Correct.
- 8 Q. Would you say it's a little more on the
- 9 passenger side?
- 10 A. I would say it's a little more on the passenger
- 11 side, yes, sir.
- 12 Q. Right below the glove box, right?
- 13 A. That's correct.
- 14 Q. Okay. You see this logo? Person on the
- 15 bicycle?
- 16 A. I see a logo, I do now.
- 17 Q. Does it look like a person on a bicycle with a
- 18 star on it?
- 19 A. Can I see the picture?
- 20 Q. Sure.
- 21 A. It appears to be a person on a bicycle.
- 22 Q. Do you see words there?
- 23 A. I see some letters. I don't know what the word
- 24 is itself.
- 25 Q. You don't recall what the words were?

1 A. Not on the bag, no, sir.

2 Q. Okay. On the driver's side, do you see another
3 bag with a logo, a person on a bicycle?

4 A. There is a possible logo on the floor over
5 there.

6 Q. Okay. Are you familiar with Postmates? A
7 delivery service?

8 A. No.

9 Q. You're not familiar with that?

10 A. I'm not really quite sure what that is
11 honestly.

12 Q. All right. Thank you.

13 MR. STORY: Beg the Court's brief indulgence.

14 THE COURT: Take your time.

15 Q. Officer Watkins, did you --

16 I'm going to briefly approach again with
17 State's Exhibit 8.

18 THE COURT: Yes, sir.

19 Q. Right there in the middle of the driver's seat,
20 do you see a white piece of paper?

21 A. It's not on the driver's seat, no, sir.

22 Q. On the passenger's seat?

23 A. Yes, sir.

24 Q. Thank you. Do you see a white piece of paper?

25 A. I do.

1 Q. Can you read that from there?

2 A. I cannot, no, sir.

3 Q. Do you remember that piece of paper?

4 A. I don't.

5 Q. Do you remember whose name was on it?

6 A. I don't recall what it was honestly.

7 Q. Okay. When you arrived -- I'll take my mask
8 back off since we're a safe distance away. When you
9 arrived at the residence, you testified you saw
10 damage to the door?

11 A. Yes, sir.

12 Q. It was already like that when you arrived,
13 right?

14 A. When I arrived, yes, sir.

15 Q. Okay. And just one brief word, you detained
16 Ms. Spurlock without incident, correct? She didn't
17 bush bond? She didn't resist?

18 A. No, sir, she didn't.

19 MR. STORY: Thank you. That's all the
20 questions I have.

21 THE COURT: Mr. Pogue, any redirect?

22 MR. POGUE: Nothing from the State, Your Honor.

23 THE COURT: Can I let the chief down?

24 MR. POGUE: Your Honor, I believe we need to
25 make him subject to recall.

1 THE COURT: Chief, I'm going to let you go, but
2 they might want to call you back.

3 THE WITNESS: Yes, ma'am.

4 THE COURT: So I need you to come back if they
5 do.

6 THE WITNESS: Yes, ma'am.

7 MR. POGUE: Your Honor, may we approach?

8 THE COURT: Yeah. Let me talk to the lawyers
9 real quick.

10 (Sidebar conference.)

11 THE COURT: Mr. Foreman, I know y'all might be
12 about ready for lunch. If you could entertain us to
13 hear two short witnesses. I hope to have you to
14 lunch by 1:00.

15 THE FOREMAN: Yes, ma'am.

16 THE COURT: Okay. Thank you.

17 Call your next witness.

18 MR. POGUE: The State calls Steve Spires.

19 STEVE SPIRES

20 being first duly sworn, testified as follows:

21 THE WITNESS: Yes, ma'am.

22 THE CLERK: Once you have a seat up there and
23 take your mask off, say your name and spell your
24 last name for the record.

25 THE WITNESS: Steve Spires from Gaston,

1 S-P-I-R-E-S.

2 DIRECT EXAMINATION

3 BY MR. POGUE:

4 Q. Good afternoon, Mr. Spires.

5 A. How are you doing?

6 Q. Where do you currently reside?

7 A. Sir?

8 Q. Where do you currently reside?

9 A. [REDACTED] Ben Spires Road.

10 Q. Okay. And is that right behind or near [REDACTED] Ben

11 Spires Road?

12 A. [REDACTED] is right in front of me.

13 Q. Okay. Who owned at the time or still owns [REDACTED],

14 the residence at [REDACTED] Ben Spires Road?

15 A. Dwayne Spires.

16 Q. Who is Dwayne Spires to you?

17 A. My son.

18 Q. Okay. And he -- I believe your testimony is

19 that he owns it now and he also owned it on October

20 3rd, 2019?

21 A. Yes, sir.

22 Q. And did he live at that residence at [REDACTED] Ben

23 Spires Road in October of 2019?

24 A. No, sir.

25 Q. Okay. Did he use that property as a rental

1 property?

2 A. Yes, sir.

3 Q. Okay. And in the months leading up to October
4 3rd, 2019, do you recall who it was that he leased
5 that residence to?

6 A. To Spurg.

7 Q. Could you repeat that for me? I'm sorry.

8 A. The lady over there on the left, Spurg.

9 Q. Are you identifying Ms. Spurlock, the
10 co-defendant, Kelsay Spurlock?

11 A. Yes, sir.

12 Q. Was she also a resident of that property on
13 October 3rd, 2019?

14 A. No, I think she been -- he evicted her.

15 Q. So she was not supposed to be there on October
16 3rd, 2019?

17 A. No, sir.

18 Q. Do you recall whether she had been evicted --

19 A. She had been evicted probably a month before
20 that or more.

21 Q. So going to October 3rd, 2019, did you ever
22 encounter the co-defendant, Ms. Kelsay Spurlock,
23 and/or the co-defendant, Jake Fredrickson?

24 A. That day that I come out to go -- get something
25 to eat, that's when -- October 3rd or whatever it

1 was when they broke in there.

2 Q. Okay. And so tell me how you -- you just
3 rewind and tell me what happened. What did you do?

4 A. I was coming out the driveway behind -- I stay
5 behind there. I come up the driveway and the truck
6 was sitting in front of the property and I know it
7 wasn't supposed to be there, wasn't supposed to be
8 nobody there. And I pulled over and there they was
9 standing inside the house.

10 MR. POGUE: Beg the Court's indulgence.

11 (Pause.)

12 BY MR. POGUE:

13 Q. I'm showing you State's Exhibit 4. Does that
14 appear to resemble the truck that you saw parked in
15 front of [REDACTED] Ben Spires Road?

16 A. Yes, sir.

17 Q. I believe your testimony was it was parked in
18 the front of the property?

19 A. Yes, sir, right at the front door, front side
20 of the house.

21 Q. Okay. And on the front side of the house --
22 well, let me ask you this: State's Exhibit 13?

23 A. That's it.

24 Q. Is that the front or the rear of the property?

25 A. That's the front.

1 Q. Okay.

2 A. Where that notice is at.

3 Q. Okay. Is that the eviction notice for Kelsay
4 Spurlock that the sheriff put there?

5 A. Yes, sir.

6 Q. Okay. Now, did -- were you aware or did you
7 have any knowledge as to whether your son kept that
8 property locked?

9 A. Yes, sir, he did.

10 Q. Okay. All of the doors?

11 A. All of the doors were locked and the windows
12 was locked, back and front.

13 Q. Would it be possible to get through a window
14 without breaking a window?

15 A. I don't see no way possible. They're locked on
16 the inside.

17 Q. They lock from the inside?

18 A. (Nods head.)

19 Q. All right. So rewind a few steps. So you said
20 you and your wife were leaving and you saw that
21 truck parked in front of the property. What did you
22 do next?

23 A. I pulled right over beside it. They had the
24 front side window open and I saw them standing right
25 up in there in the house.

1 Q. When you say window, are you talking about the
2 window to the home?

3 A. Right.

4 Q. And that's on the front of the house?

5 A. Yes, sir.

6 Q. Who did you see inside the home?

7 A. Her and him. She tried to duck down and hide,
8 but I saw who it was.

9 Q. So you saw --

10 MR. POGUE: Your Honor, just for the record,
11 the witness --

12 Q. Correct me if I'm wrong, Mr. Spires. You are
13 identifying Ms. Spurlock, the co-defendant, and Mr.
14 Fredrickson, the other defendant?

15 A. That's correct.

16 Q. That's the people you saw inside the home?

17 A. Yes, sir.

18 THE COURT: So noted for the record.

19 MR. POGUE: Thank you, Your Honor.

20 BY MR. POGUE:

21 Q. And when you saw them, did you saw anything to
22 them?

23 A. Yes, I told them they wasn't supposed to be in
24 there and I told them I was calling the law and told
25 them to get out.

1 Q. Without telling me anything that they said, you
2 told them that you were going to call the law?

3 A. Right.

4 Q. And that they weren't supposed to be there and
5 get out?

6 A. That's correct.

7 Q. Then what did you do after you told them that?

8 A. I backed up and called my son.

9 Q. When you say you backed up, like, how far away
10 did -- like, could you still see the truck and the
11 residence?

12 A. I could see to around the tree right there and
13 then I went in -- got the phone and called my son.
14 And then I got back in the car and pulled back down
15 there to watch and see when they was going to leave.

16 Q. When you went to call your son and then came
17 back, was the truck still there?

18 A. Yes, sir.

19 Q. Approximately how long after you told them you
20 were calling the law and they weren't supposed to be
21 there and they had to leave did they leave?

22 A. It wasn't much over five minutes or something
23 like that.

24 Q. And, eventually, did they enter the truck and
25 leave?

1 A. Yes, sir.

2 Q. Okay. And when they got in the truck, which
3 direction did they head when they left the property?

4 A. Went out towards 321.

5 Q. Okay.

6 MR. POGUE: Beg the Court's indulgence.

7 THE COURT: Take your time.

8 Q. Mr. Spires, do you recall whether the rear rood
9 had been broken prior to this date?

10 A. No, sir, I didn't go around there. They had
11 just had the window up is how I saw them.

12 Q. But you didn't have any personal knowledge as
13 to that door being broken?

14 A. Not then, I didn't.

15 Q. Okay. After they left, what did you do after
16 that?

17 A. Me and my wife -- after they left, me and her
18 got back in the car and went on and got us something
19 to eat and come back.

20 Q. All right.

21 MR. POGUE: No further questions, Your Honor.

22 THE COURT: Mr. Sutherland.

23 MR. SUTHERLAND: Beg the Court's indulgence.

24 THE COURT: Yes, sir.

25 MR. SUTHERLAND: No questions for this witness,

1 Your Honor.

2 THE COURT: Mr. Story?

3 MR. STORY: Briefly, Your Honor.

4 CROSS-EXAMINATION

5 BY MR. STORY:

6 Q. Good afternoon, Mr. Spires?

7 A. How are you doing?

8 Q. Doing well. Let me ask you this: You
9 testified that those doors were locked on the
10 inside?

11 A. Sir?

12 Q. Did you just tell Mr. Pogue that those doors
13 were locked on the inside?

14 A. They locked -- it's like a mobile home, they
15 lock inside and out.

16 Q. And you said there was no way to get in there
17 without breaking a window or a door?

18 A. No, if the windows on a mobile home is locked
19 and the doors is locked, you shouldn't be able to
20 get in there unless you break something.

21 Q. So, basically, nobody could get in unless they
22 broke something?

23 A. That's the way I would see it. Because I stay
24 in a doublewide of the same kind.

25 Q. Yes, sir. Now, you previously testified Ms.

1 Spurlock was not supposed to be in residence?

2 A. That's correct.

3 Q. As a matter of fact, nobody was supposed to be
4 in the residence, correct?

5 A. That's correct.

6 Q. And it was also your testimony that you had no
7 knowledge of whether the door was broken before you
8 saw it, correct?

9 A. I didn't go around to the back.

10 Q. Okay.

11 MR. STORY: Thank you, Your Honor. That's all
12 the questions I have.

13 THE COURT: Any redirect?

14 MR. POGUE: Nothing further from the State.

15 THE COURT: May I let Mr. Spires down?

16 MR. POGUE: I don't foresee needing his
17 testimony any more unless they --

18 THE COURT: So he can be excused?

19 MR. POGUE: Yes, Your Honor.

20 THE COURT: Mr. Spires, you may be excused.

21 Thank you.

22 Call your next witness.

23 MR. POGUE: Thank you, Your Honor. The State
24 calls Dwayne Spires.

25 DWAYNE SPIRES

1 being first duly sworn, testified as follows:

2 THE WITNESS: I do.

3 THE CLERK: Have a seat up there and take your
4 mask off. Please state your name and spell your
5 last name for the record.

6 THE WITNESS: Dwayne Spires, S-P-I-R-E-S.

7 DIRECT EXAMINATION

8 BY MR. POGUE:

9 Q. Good afternoon, Mr. Spires. Do you own the
10 property at [REDACTED] Ben Spires Road?

11 A. Yes.

12 Q. Did you own it October 3rd, 2019?

13 A. Yes.

14 Q. Okay. Do you know the co-defendant in this
15 case, Kelsay Spurlock?

16 A. Yes.

17 Q. How do you know her?

18 A. She was a tenant.

19 Q. Okay. When was she a tenant?

20 A. Probably about seven or eight months, something
21 like that.

22 Q. During the year of 2019?

23 A. Yes.

24 Q. Okay. And when she leased the property, did
25 y'all have a lease agreement or rental agreement?

1 A. Yes.

2 Q. What was her rent?

3 A. \$500 a month.

4 Q. Okay. And how long was the term supposed to
5 be? How long was the lease?

6 A. A year.

7 Q. Okay. And at any point in time, did you
8 ever -- did she ever fall behind in rent?

9 A. Yes, towards the end, yeah.

10 Q. And do you recall whether you ever filed a --
11 to have her evicted from the property for failure to
12 pay rent?

13 A. Yes, I did.

14 Q. Was it just one month, do you recall? Was it a
15 couple months --

16 A. She was about two or three months behind.

17 Q. All right. Did you try to help her out before
18 that to give her a little time to pay or did you --

19 A. Yeah, I tried.

20 Q. Where did you live at the time that you rented
21 this property out?

22 A. In Lexington with my girlfriend.

23 Q. Okay. All right. After she was evicted after
24 October of 2019, did you still maintain that
25 property as a residence that you rented?

1 A. Yes.

2 Q. Is it still a residence?

3 A. Yes.

4 Q. Did it ever cease being a residence?

5 A. Just when I had to go in and clean it up,
6 pretty much fix the door and everything else in it.

7 Q. Let me rephrase the question. At any point,
8 did you ever change the purpose for that building?
9 Was it being used for commercial capacity or was it
10 being used as a dwelling?

11 A. A dwelling, yeah.

12 Q. And it never ceased being a building that you
13 owned for purposes of a residence or dwelling?

14 A. Yeah, it's -- yes. It's pretty much a mobile
15 house.

16 Q. All right. On October 3rd, 2019, did you get a
17 call from your father?

18 A. Yes.

19 Q. Okay. Without telling me what he said, as a
20 result of that call, what did you do?

21 A. I called 911.

22 Q. Why did you call 911?

23 A. Because he said there was --

24 Q. Without telling me what he said, just tell me
25 what you called 911 for?

- 1 A. Basically, somebody was breaking into my house.
- 2 Q. And did you give the 911 operator your address?
- 3 A. Yeah.
- 4 Q. Okay. And did they say they were sending
- 5 somebody?
- 6 A. Yes.
- 7 Q. Okay. And at that point in time, did you --
- 8 did you give them any sort of identifying
- 9 information in regard to who may potentially be --
- 10 A. Yes.
- 11 Q. Okay. Tell me how you secured the
- 12 property after you had -- let me rewind. I'll show
- 13 you what's marked as State's Exhibit -- if I can
- 14 find it. I show you what's marked as State's
- 15 Exhibit 13. Is that the front door of [REDACTED] Ben
- 16 Spires Road?
- 17 A. Yes.
- 18 Q. What is that on the door?
- 19 A. It's a padlock.
- 20 Q. What is posted on the door?
- 21 A. Eviction notice.
- 22 Q. Is that the eviction action that you had filed
- 23 against --
- 24 A. Yes.
- 25 Q. Okay. And do you recall --

1 MR. POGUE: Permission to approach the witness,
2 Your Honor?

3 THE COURT: You may.

4 Q. Do you recall when the date was that Ms.
5 Spurlock was supposed to be out of the residence?

6 A. Not offhand, but it's on that notice. But I
7 can't really read it.

8 Q. Let me ask you this: Approximately how long
9 prior to this was it from your recollection?

10 A. I think it was a month or two before.

11 Q. Was it in August?

12 A. I think so. I just ain't time to go out there
13 and do nothing with it.

14 Q. After that eviction notice was posted, did you
15 keep the property locked?

16 A. Yes.

17 Q. All right. How did you keep it locked? Did
18 you keep just the doors locked? Did you keep --

19 A. Doors and windows.

20 Q. At any point in between Ms. Spurlock being
21 evicted and when you leased it to the next renter,
22 did you ever leave the property unsecured?

23 A. No.

24 Q. Okay. I'm going to show you State's Exhibit

25 14. Where is this door?

- 1 A. That's the back door on the back porch.
- 2 Q. Okay. And you say that's the back door,
- 3 there's a back porch on the back of the home?
- 4 A. Yes.
- 5 Q. Is there a fence?
- 6 A. Yes.
- 7 Q. Okay. What kind -- is it like a chain link
- 8 fence?
- 9 A. Yes.
- 10 Q. So there's a chain link fence that encompasses
- 11 the back yard?
- 12 A. Yes.
- 13 Q. Does it also encompass this door and the porch?
- 14 A. Yes.
- 15 Q. It has a gate you have to go through?
- 16 A. Yes.
- 17 Q. Was this door broken like that when you evicted
- 18 Kelsay Spurlock?
- 19 A. No.
- 20 Q. All right. And did you ever come out from time
- 21 to time to check on the property?
- 22 A. Yes.
- 23 Q. Okay. And from the time that you came and
- 24 checked on the property, did you ever notice this
- 25 door broken like that prior to October 3rd of 2019?

1 A. No.

2 Q. All right. On October 3rd, 2019, did you --
3 let me ask you this: When you called 911, where
4 were you at the time?

5 A. I was working.

6 Q. Where were you walking?

7 A. Capital City Hall.

8 Q. Were you near the property?

9 A. No, 45 minutes away.

10 Q. Eventually, did you go to the property?

11 A. Yes.

12 Q. When you went to the property, did you meet
13 with law enforcement officers eventually?

14 A. He already left the property. I had to meet
15 him at the police station.

16 Q. Did you ever speak to any law enforcement
17 officer?

18 A. Yes.

19 Q. Okay. And at that point in time, did you --
20 did you give them the -- any information with regard
21 to who your former tenants were?

22 A. Yes.

23 Q. Who did you tell them that person was?

24 A. Kelsay Spurlock.

25 Q. And did she lease that property by herself or

1 was there anybody else that lived with her?

2 A. By herself.

3 Q. Okay. Would there be any way to access the
4 property inside the home without breaking a door or
5 a window?

6 A. Yeah. If they would have called, I could have
7 let them right on in.

8 Q. Let me rewind. Without you letting them in or
9 somebody letting them in with a key, would there be
10 any way to get --

11 A. No.

12 Q. Okay. And you say if she would have called,
13 you would have let them in?

14 A. Yep.

15 Q. To get her stuff?

16 A. Yep.

17 Q. But she was not supposed to be on the property
18 without -- she did not have consent to be on the
19 property?

20 A. No.

21 Q. When you went out on October 3rd, did you look
22 inside the home that day?

23 A. Yes.

24 Q. Was the home trashed at all? Did it look like
25 stuff had been gone through or --

1 A. It was totally trashed.

2 Q. It was not how you last left it?

3 A. It was trashed -- basically, when she moved
4 out, it had been trashed. I hadn't had a chance to
5 clean it out. I mean, I don't know -- it's been
6 that way since she moved out. So I couldn't tell
7 you if anything had been moved or not, you know what
8 I mean.

9 Q. I gotcha. So you couldn't say one way or the
10 other if anything was moved or --

11 A. No.

12 Q. Okay.

13 MR. POGUE: Beg the Court's indulgence.

14 THE COURT: Take your time.

15 MR. POGUE: No further questions.

16 THE COURT: Mr. Sutherland.

17 MR. SUTHERLAND: May it please the Court,
18 Judge, briefly?

19 THE COURT: Yes, sir.

20 CROSS-EXAMINATION

21 BY MR. SUTHERLAND:

22 Q. Sir, I'm Tivis. I have not used one of these
23 things before. So that is the condition --
24 according to your testimony, you had it padlocked in
25 the front and all doors and windows locked

1 post-eviction, once she was evicted, up to that
2 date, the 3rd?

3 A. Yeah. Once the eviction notice was served and
4 they notified me, then I went out there -- because
5 she put the padlock on the door. I actually took
6 her padlock off and put my on and locked the rest of
7 the house down.

8 Q. Okay. And the stuff that was in there was just
9 her stuff that she had left in there?

10 A. Yes.

11 Q. So I guess with her evicted and her stuff in
12 there that between that time and time of this
13 incident, there was nobody living in there?

14 A. Yes.

15 MR. SUTHERLAND: Thank you. No further
16 questions.

17 THE COURT: Thank you, Mr. Sutherland.

18 Mr. Story.

19 CROSS-EXAMINATION

20 BY MR. STORY:

21 Q. Just briefly, Mr. Spires. You said you had no
22 way of knowing if things had been moved around?

23 A. No, sir.

24 Q. Because you hadn't been in there?

25 A. No, I hadn't been in there.

1 Q. And you hadn't rented -- between that period of
2 August and October, you hadn't rented it out to
3 anybody else?

4 A. No, sir. It was going to take me a while to
5 clean that place up.

6 MR. STORY: Thank you. No further questions.

7 THE COURT: Any redirect?

8 MR. POGUE: Just one question.

9 REDIRECT EXAMINATION

10 BY MR. POGUE:

11 Q. When you say that you didn't have a chance to
12 go through it or look through it, you're not saying
13 that things were not moved around or anything like
14 that, you're just saying due to the disarray of the
15 contents, you couldn't say one way or the other?

16 A. Yes, sir.

17 Q. Did Ms. Spurlock receive notice that she had to
18 have her stuff removed by a certain date?

19 A. Yes, sir.

20 Q. And did she have her stuff removed by that
21 date?

22 A. No, sir.

23 THE COURT: Anything briefly?

24 MR. STORY: Briefly.

25

19 All right. Mr. Foreman, I'm going to let y'all
20 go to lunch. Same rules apply. You're probably
21 going to hear me say it a hundred times. Cannot
22 talk about this case, cannot do any research on any
23 social media. You may have your telephones during
24 lunch. We're going to start back at two o'clock,
25 probably about 2:15. If y'all can be back in the

1 jury room at two o'clock.

2 With that said, have a good lunch. No talking
3 amongst each other during lunch.

4 (The jury exits the courtroom at 12:52 PM.)

5 THE COURT: All right. Anything from the
6 State?

7 MR. POGUE: Not that I can recall. I don't
8 believe so, Your Honor.

9 THE COURT: Anything from the defense, Mr.
10 Sutherland?

11 MR. SUTHERLAND: No, ma'am.

12 THE COURT: Mr. Story?

13 MR. STORY: No, Your Honor.

14 THE COURT: Then let's go to lunch. Let's be
15 back at two o'clock. We'll bring the jury back in
16 about 2:15 and go from there. Thank you.

17 (Lunch recess.)

18 THE COURT: We ready?

19 MR. STORY: I think Mr. Pogue has one issue he
20 wants to address for the record.

21 MR. POGUE: Mr. Story, when Chief Watkins was
22 on the stand, I can't remember which one of the
23 photos you used to ask him about, but one of these
24 two photos, I think it was this one, State's Exhibit
25 9, State's Exhibit 9 or 8 that shows a white sheet

1 of paper that's on the seat of the vehicle.

2 THE COURT: Yeah.

3 MR. POGUE: That, Your Honor, I redacted out so
4 that it's white. But that was his blue sheet for
5 the attempted murder charge that he appeared in
6 general sessions earlier that day prior to this
7 happening with my handwriting on it because I have
8 that charge as well. So --

9 THE COURT: He has another charge out there
10 somewhere?

11 MR. SUTHERLAND: Judge, I was fixing to jump
12 up, but he said I can't make anything out on it, so
13 I just sat down. I don't like to object unless I
14 have to.

15 MR. POGUE: I just wanted to make sure though,
16 Your Honor -- the State's position is that's not
17 proper evidence, you know, unless Mr. Fredrickson or
18 Mr. Sutherland opens the door to that, under any
19 rule of evidence or case law theory that I'm aware
20 of, because I think that would be -- that's unfair
21 prejudice and --

22 THE COURT: Highly prejudicial.

23 MR. POGUE: So I just wanted to make sure we're
24 not inquiring about that nor make it look like the
25 State is trying to hide something in a nefarious way

1 by redacting something out.

2 THE COURT: I agree.

3 Mr. Story.

4 MR. STORY: Basically, what I was not going
5 to -- in that question, my intention was not to talk
6 about his attempted murder charge. My intention was
7 to elicit identifying information.

8 THE COURT: In an attempted murder?

9 MR. STORY: No, in a trafficking case, Your
10 Honor. The drugs were found near a sheet with Jake
11 Frederickson's name on it. I wasn't going to the
12 attempted murder. Now, however, if Mr. Fredrickson
13 takes the stand, I do believe the 6th Amendment
14 right to confrontation, I can go into any pending
15 charges and potential penalties, State v. Mizell and
16 State v. Simms, Your Honor, and I have the cites for
17 you. I do believe that is totally relevant for
18 cross-examination.

19 THE COURT: I tell you what, before -- when the
20 State rests, before y'all put up anybody I'll
21 address all those issues so we'll know what is fair
22 game.

23 MR. POGUE: Your Honor, Deputy Solicitor Graham
24 just mentioned and I agree with him, I think that --
25 you know, not addressing Mr. Story's assertion that

1 he thinks he can ask about that in
2 cross-examination, but in regards to my case in
3 chief, I don't know if Mr. Sutherland would have an
4 issue of stipulating to that piece of paper that's
5 on that seat belonged to Jake. I mean, he's clearly
6 driving the truck. I don't think he even disputes
7 that was his truck.

8 MR. SUTHERLAND: I can do that. I mean, I
9 think if we just slid past it and we just left it,
10 they wouldn't even remember it. He was like I can't
11 tell what's on there and then -- that's why I sort
12 of --

13 THE COURT: There Was no testimony as to what
14 was on the paper.

15 MR. POGUE: Exactly. The other side of that
16 coin, Your Honor, is I didn't want the jury to
17 think --

18 THE COURT: You were hiding --

19 MR. POGUE: That it was redacted out and to
20 think I'm nefariously hiding something that was on
21 that seat. That was my concern as well, so it's
22 kind of multifaceted, Your Honor.

23 THE COURT: What are you asking the Court to
24 do? Because that's already been asked.

25 MR. POGUE: Your Honor, again, as Solicitor

1 Graham just mentioned, I think -- I agree, I think
2 if you just say it's a white piece of paper that's
3 face down. I don't know, again, if he'd have a
4 problem stipulating that belonged to Jake or --

5 THE COURT: We can do a stipulation or if y'all
6 want me to --

7 MR. SUTHERLAND: I feel like we kind of blew
8 past it there.

9 MR. POGUE: I'll leave that issue between them,
10 mainly, Mr. Story and Mr. Sutherland how they want
11 to address that or approach that going forward with
12 the remainder of the witnesses. I just wanted to
13 make the Court is aware and make sure the State is
14 not going to be prejudiced by them asserting
15 something that's not --

16 THE COURT: I can instruct the jury that the
17 piece of paper belongs to Mr. Fredrickson. But
18 nobody has testified that it belongs to him yet. He
19 doesn't even know -- the officer testified he
20 couldn't even read it.

21 MR. POGUE: Because it's redacted.

22 MR. SUTHERLAND: He didn't say that, though. I
23 say we just blow past it.

24 MR. POGUE: If Your Honor is comfortable with
25 that, that's fine. I just wanted to make sure

1 everybody is on the same page and where.

2 THE COURT: And he didn't say -- and I don't
3 think there was any insinuation that the solicitor's
4 office was hiding anything. And like he just said,
5 I don't know what it is. I can't read it.

6 MR. POGUE: I wasn't -- I apologize if I was
7 confusing.

8 THE COURT: Did y'all want to me to give some
9 kind of instruction to the jury?

10 MR. POGUE: I'm not asking for a curative
11 instruction on that.

12 THE COURT: Are you asking for it, Mr.
13 Sutherland?

14 MR. SUTHERLAND: I think it's in the past and I
15 say we leave it in the past and get on to the end.

16 MR. STORY: And, Your Honor, you're not
17 ordering that I can't ask people about -- I'm just
18 not asking about the charges. That I can't ask
19 about identifying information on that paper?

20 THE COURT: I'm not ordering that you cannot.
21 You can do what you see fit unless somebody objects
22 to it, then I'll rule on it.

23 MR. STORY: All right. Thank you.

24 THE COURT: Okay. Now, let me ask, can I bring
25 the jury in?

1 MR. POGUE: State's ready, Your Honor.

2 THE COURT: Okay. Let me just ask for timing
3 purposes, how many witnesses, Mr. Pogue, you think
4 we're going to get through this afternoon? What you
5 got?

6 MR. POGUE: I was speaking to Investigator
7 Ashley over the break, the last two witnesses I
8 would have would be the chemist from SLED and
9 Investigator Merckle, which I believe both work --
10 to be quite honest, Your Honor, I thought there was
11 going to be more time taken up on cross-examine.
12 You know, you try to do the best you can in regards
13 to anticipating. So I think their noticed to be
14 here tomorrow morning, so those would be the final
15 two witnesses. I think I have, what, four more this
16 afternoon that shouldn't be nearly as long as Chief
17 Watkins. A little bit longer than the two victims,
18 but not as long as Chief Watkins. I think it
19 shouldn't be a problem at all to get rid of those --

20 THE COURT: Those two?

21 MR. POGUE: There's four. Four more law
22 enforcement officers that I'm calling.

23 THE COURT: I think I see them back there in
24 the back.

25 Okay. Let's see if we can't get them and get

1 them back where they need to be. We'll try to get
2 through those this afternoon.

3 MR. POGUE: Thank you, Your Honor.

4 THE COURT: And then we'll have two in the
5 morning.

6 MR. POGUE: And then I intend to rest.

7 THE COURT: I just want to make sure that I've
8 given y'all time to be ready to go tomorrow for
9 whatever it is y'all decide to do.

10 MR. POGUE: I just found out from Mr. Graham
11 that he asked Investigator Ashley to see if the
12 other two witnesses could be here. I don't know
13 that we'd finish all six this afternoon, but we may
14 be able to get the chemist as well.

15 THE COURT: Have y'all even talked about the
16 chemist?

17 MR. POGUE: That was going to kind of be my
18 thing, too. It doesn't sound like they're
19 challenging that it was meth, it was just whose it
20 was. I mean, I'm fine putting the evidence up, I
21 just don't know how much we can streamline.

22 THE COURT: I'm just asking, have y'all talked
23 about a stipulation?

24 MR. SUTHERLAND: We have not talked about it,
25 but we're not contesting that it was

1 methamphetamine.

2 MR. POGUE: Or the -- or the -- the weight that
3 is between 28 and 100 grams. I think it's like
4 altogether a little over 60 or something like that.

5 THE COURT: Okay.

6 MR. STORY: Your Honor, I hate to be that guy,
7 but it's an element of the offense and I can't
8 stipulate to an element of the offense like that.

9 THE COURT: I understand.

10 MR. POGUE: The State was planning to offer it
11 anyway, so no problem.

12 THE COURT: That's good.

13 All right. Let's bring the jury in.

14 (The jury enters the courtroom at 2:14 PM.)

15 THE COURT: All right. Mr. Foreman, is the
16 jury ready?

17 THE FOREMAN: Yes, Your Honor.

18 THE COURT: Call your next witness.

19 MR. POGUE: Thank you, Your Honor. The State
20 calls Brandon Poole.

21 BRANDON POOLE

22 being first duly sworn, testified as follows:

23 THE WITNESS: I do.

24 THE CLERK: Have a seat. Please state your
25 name for the record and spell your last name.

1 THE WITNESS: Brandon Poole. Last name is
2 P-O-O-L-E.

3 DIRECT EXAMINATION

4 BY MR. POGUE:

5 Q. Good afternoon. What's your rank?

6 A. Right now, I'm a PSO with Cayce.

7 Q. Sounds good.

8 A. Which is public safety officer.

9 Q. Okay. Officer Poole, so where are you
10 currently employed in that capacity?

11 A. I'm employed by the City of Cayce. Cayce
12 Department of Public Safety.

13 Q. How long have you been with Cayce?

14 A. I've been with Cayce since December 3rd.

15 Q. And prior to this position, where were you
16 employed?

17 A. I was employed by the Town of Gaston, Gaston
18 Police Department.

19 Q. In what capacity were you employed there?

20 A. I was the captain at the police station.

21 Q. How long were you with Gaston?

22 A. Seven years.

23 Q. So my math says that you were also there as a
24 captain on October 3rd, 2019, the date of this
25 incident?

- 1 A. Correct.
- 2 Q. Prior to your tenure at Gaston Police
3 Department, did you have any other law enforcement
4 experience?
- 5 A. Yes, I started in law enforcement in 1998.
6 I've been in for 23 years. I originally started
7 with the City of Columbia.
- 8 Q. So you went to City of Columbia after the
9 academy?
- 10 A. Yes, sir.
- 11 Q. Where did you go after the City of Columbia,
12 Gaston?
- 13 A. Lexington County.
- 14 Q. Sheriff's Department?
- 15 A. Yes, sir.
- 16 Q. And then after that?
- 17 A. Springdale.
- 18 Q. Springdale. And then after that?
- 19 A. Gaston.
- 20 Q. So you have a couple of decades of law
21 enforcement experience?
- 22 A. Yes, sir.
- 23 Q. And when you were employed in Gaston in October
24 of 2019, were you a K9 officer?
- 25 A. Yes, sir.

1 Q. Tell us a little bit about that. What is a K9
2 officer?

3 A. I still am a K9 officer with the same dog. In
4 2017, we started the K9 program. I received my dog
5 through a private citizen donating a bloodhound. I
6 picked that dog up at ten weeks old, who became
7 certified at four months old through the South
8 Carolina Police K9 Association. And ever since
9 then, we've been working together. We maintain
10 certification once every year.

11 Q. What kind of tasks does your K9 officer
12 perform?

13 A. Well, my dog is a single-purpose dog, which
14 means they only do scent tracking, human scent
15 tracking, whether it be missing children, elderly
16 people or people that are, you know, on the run
17 criminals.

18 Q. And what did you say your dog's name was?

19 A. My dog's name is Bella.

20 Q. And how old is Bella now?

21 A. Bella is -- her birthday is March 11th, so
22 she's about four and a half years old.

23 Q. So 2019, she was two-ish?

24 A. Yes, sir, about two and a half.

25 Q. And I'm making a presumption here, you did have

1 Bella with you when you were at Gaston Police
2 Department in October of 2019, during this incident?

3 A. Yes, sir.

4 Q. Does Bella like ride in the back of the car
5 with you? What kind of vehicle --

6 A. Yes, sir, I was in a Dodge Charger and that
7 Charger was fitted with the actual K9 insert made by
8 a company. Also, that insert entails having an
9 actual heat alarm system in there for the protection
10 of the dog. If it gets too hot in the vehicle,
11 where the windows roll down, horn starts beeping and
12 the lights start flashing.

13 Q. Does that take up the whole back seat?

14 A. Yes, sir, it's the entire seat.

15 Q. So you can't transport anybody?

16 A. If I did, it's with people that were
17 noncombative in nature and they would be transported
18 in the front seat.

19 Q. Gotcha. Turning to this particular incident,
20 how did you become involved?

21 A. I was at the police department, as well as
22 Chief Watkins was when the call came out. I was
23 just a little late in wrapping up what I was doing
24 at the police department to get involved.

25 Q. Okay.

1 A. So I left the police department later than
2 Chief Watkins did in route to the call.

3 Q. We you say later, are you talking minutes, just
4 a couple minutes, or hours?

5 A. Couple minutes at the most. Because by the
6 time I get involved, we're only talking maybe a half
7 mile of travel.

8 Q. Okay. And did you -- were you close enough to
9 Chief Watkins or, at the time, Captain Watkins, I
10 believe, to see him initiate a traffic stop on
11 the --

12 A. No, sir. I believe -- when we watch the video,
13 you'll see I was at the intersection of Mack Street
14 and 321. That would be after he tried to initiate
15 the traffic stop at Ben Spires and 321 -- they went
16 back northbound towards Cayce, towards I-26 and they
17 actually passed me sitting at the intersection of
18 Mack Street and 321, and then that's where I got
19 involved.

20 Q. Okay. Was your car equipped with dash camera?

21 A. Yes, sir.

22 MR. POGUE: Permission to approach, Your Honor?

23 BY MR. POGUE:

24 Q. Officer Poole, I'm handing you what's marked as
25 State's Exhibit 18 for identification purposes.

1 Could you take a look at that item and tell me if
2 you recognize it?

3 A. Yes, sir, I do.

4 Q. What is it?

5 A. It's my dash cam from my patrol car on the
6 incident in question. I initialed it and dated it
7 saying it's mine.

8 Q. And you had an opportunity to watch it?

9 A. I did.

10 Q. Is it a fair and accurate depiction of the
11 events that took place during the timeframe on
12 October 3rd, 2019 of this incident?

13 A. Yes, sir.

14 MR. POGUE: Your Honor, at this time, the State
15 would offer State's Exhibit 18 into evidence?

16 THE COURT: Any objection, Mr. Sutherland?

17 MR. SUTHERLAND: No, ma'am, again, as long as
18 it's the one I got last night.

19 THE COURT: Mr. Story?

20 MR. STORY: No, Your Honor.

21 THE COURT: Same one they got last night?

22 MR. POGUE: Yes, ma'am, Your Honor. Permission
23 to publish?

24 THE COURT: Yes, sir.

25 (State's Exhibit No. 18 admitted into

1 evidence.)

2 BY MR. POGUE:

3 Q. What is it we're looking at right here?

4 A. That is the patrol car at the Gaston Police
5 Department and that's the 30-second prerecord
6 without audio.

7 Q. That's what I was going to ask you next, why is
8 the first 30 seconds silent, it's because of why,
9 you said?

10 A. It's without audio. It -- basically, once you
11 activate your lights, it backs up 30 seconds to make
12 sure that -- it backs up 30 seconds to make sure
13 anything that happened initially before you turned
14 the lights on is captured.

15 Q. So is it on a loop kind of?

16 A. Yes, sir, it's always recording in the car.

17 Q. It back records the last 30 seconds?

18 A. Yes, sir.

19 Q. But, obviously, the audio is not captured until
20 it's activated?

21 A. Yes, sir.

22 (Video played.)

23 BY MR. POGUE:

24 Q. But when we watch it now, the audio is synced
25 with the events that are taking place?

1 A. Correct.

2 Q. What is that vehicle right there?

3 A. That's the vehicle that Major Watkins at the
4 time was attempting to stop.

5 (Video resumed.)

6 Q. Okay. Is that Major Watkins there?

7 A. Yes, sir.

8 (Video resumed.)

9 Q. So at this point in time -- and I don't know if
10 you have a certain vernacular that you use, but are
11 you secondary in the pursuit?

12 A. Correct.

13 Q. Tell me what your proceedings --

14 A. Once a pursuit is started, the first unit is
15 called the primary. Second unit, once they get
16 involved in the pursuit is secondary. At that
17 point, the primary takes away -- or loses all radio
18 communication so he can concentrate on driving. The
19 secondary unit is responsible for calling out all
20 radio transmissions, locations, traffic, any other
21 things that happen during the pursuit to let other
22 units know.

23 Q. Okay. And do y'all make a request for other
24 agencies to assist or do they automatically respond,
25 how does that work?

1 A. No, sir. They would all be needed to request
2 to respond based on the how the memorandums of
3 understanding work between agencies.

4 Q. Were requests made for other agencies to
5 assist?

6 A. Yes, sir. Requests were made specifically to
7 get involved to help with the stop stick tire
8 deflation devices and to help in the pursuit.

9 Q. What are stop sticks?

10 A. Stop sticks are tire replacement devices. You
11 throw them out in the middle of a lane of travel
12 when the suspect vehicle is coming through. And if
13 they run over the stop sticks, they have spikes with
14 holes in them that, basically, go into the tires and
15 slowly deflate the tires so that the tires go down
16 to nothing and it helps end pursuit safely.

17 Q. So it's not abrupt, it slowly deflates?

18 A. Correct.

19 Q. Were stop sticks attempted to be deployed in
20 this particular pursuit?

21 A. They are later in this pursuit, yes, sir.

22 Q. Were they able to put them on a stretch of road
23 where the defendant vehicle, the white truck passed?

24 A. They attempted to, yes, but the pursuit -- the
25 stop sticks were on the ground. The problem is the

1 pursuit turned before the stop sticks.

2 (Video resumed.)

3 MR. SUTHERLAND: I'm sorry, if I may, are we
4 going to watch the whole thing?

5 MR. POGUE: That's what I was getting ready to
6 address. Your Honor, in the interest of saving as
7 much court time as we can and not wasting the jury's
8 time, I don't intend to play the whole video up to
9 the point of the stop or of the bush bond, as they
10 say. But, Your Honor, there are some relevant
11 portions of this I'd like to address, but if it's
12 okay with you, I'll just go ahead and skip this part
13 as long as they don't have any objection to that.

14 THE COURT: Any objection, Mr. Sutherland?

15 MR. SUTHERLAND: No, Your Honor. And my only
16 point is we've already seen this.

17 THE COURT: Mr. Story?

18 MR. STORY: No, Your Honor.

19 THE COURT: Go ahead, Mr. Pogue.

20 MR. POGUE: Thank you, Your Honor.

21 Q. Just to clarify, though, Officer Poole, do you
22 stay with Chief Watkins or fairly close to Chief
23 Watkins for the bulk of the pursuit?

24 A. Yes, sir.

25 Q. And you're supporting with calling out radio

1 traffic and location?

2 A. Yes, sir.

3 (Video resumed.)

4 Q. Okay. Who is that other patrol vehicle that's
5 between you and Chief Watkins now at this point?

6 A. I believe that's a Swansea patrol vehicle. If
7 I'm not mistaken, that's Officer Contreras.

8 Q. Okay. And off of what road is this part of the
9 pursuit right here?

10 A. We're currently in a two-rut road off of
11 Woodrow Boone.

12 (Video resumed.)

13 Q. Do you recall what you're doing at this point?

14 A. If I'm not mistaken, I believe I'm probably
15 getting the dog ready. Based off of -- at that
16 point, I can see that that vehicle that we're
17 pursuing, the white truck, is no longer in view.
18 So, inevitably, based on where we're at, I'm
19 probably getting the dog ready. The dog has to be
20 harnessed up and other tools has to be got out so I
21 can possibly put her down for a track.

22 (Video resumed.)

23 BY MR. POGUE:

24 Q. Okay. From your recollection, what you can
25 tell, is that Officer Contreras from Swansea PD that

1 followed Chief Watkins?

2 A. Yes, sir.

3 Q. On foot?

4 A. Yes, sir.

5 Q. What are you attempting to do now?

6 A. So I heard Chief Watkins talking about on the
7 radio he's coming back out. A lot of times,
8 suspects are still in vehicles, they have a tendency
9 to come back out, double back out and stay in the
10 car and possible escape or get away from us.
11 Because those two were on foot, I wanted to stay in
12 the car just in case he tried to doubled back out.
13 And I knew that because of where we're at in the
14 driveway, if I stayed right there and blocked the
15 driveway, he would possibly not be able to escape.

16 (Video resumed.)

17 Q. Are you just protecting the entrance right now?

18 A. I believe I'm out, possibly trying to get stop
19 sticks out as with well. Everybody in Gaston had
20 them. So that would preclude me if he possibly
21 comes back out to get them down to him coming back
22 out, then possibly could deflate the tires.

23 (Video resumed.)

24 BY MR. POGUE:

25 Q. Was that you calling out the location there?

1 A. Yes, sir.

2 Q. Your call number is 702?

3 A. Yes, sir.

4 Q. Watkins is 701?

5 A. At that time, yes, sir.

6 (Video resumed.)

7 Q. And your K9 is in the back of the vehicle right
8 now?

9 A. Yes, sir.

10 (Video resumed.)

11 Q. Understanding this was almost two years ago
12 now, do you know where you were headed now? Do you
13 recall?

14 A. Yes, I'm headed to the last known location that
15 Major Watkins saw the suspect in hopes of deploying
16 the dog.

17 (Video resumed.)

18 Q. Okay. What are y'all doing at this particular
19 time?

20 A. At that point in time, he was just discovered
21 in the culvert that goes under the road.

22 Q. Okay. Where is that culvert in relation to
23 your vehicle?

24 A. That culvert is kind of to the left, 45 degrees
25 off the front left of my vehicle, the driver's side,

- 1 kind of the corner.
- 2 Q. The opening of it?
- 3 A. Yes, sir.
- 4 Q. And does it run underneath Mimosa?
- 5 A. Yes, sir, runs all the way under the road.
- 6 Q. Do you recall whether you were assisting Chief
- 7 Watkins in putting the male that was in the culvert
- 8 into custody at that point in time?
- 9 A. Yes, sir, I was.
- 10 Q. Was it potentially you that was laying next to
- 11 him when he was ordering the male out of the
- 12 culvert?
- 13 A. Yes, sir.
- 14 Q. Who is this individual here?
- 15 A. Which one?
- 16 Q. I apologize, the non-law enforcement officer?
- 17 A. That is Jake Fredrickson.
- 18 Q. Was that the individual that was pulled out of
- 19 the culvert?
- 20 A. Yes, sir.
- 21 Q. Or that came out of the culvert?
- 22 A. Yes, sir.
- 23 Q. Do you see him in the courtroom?
- 24 A. Yes, sir.
- 25 Q. Is Jake Fredrickson sitting at the defense

1 table?

2 A. Yes, sir.

3 Q. Do you have the laser pointer up there?

4 A. Yes, sir.

5 Q. Who is this officer right here?

6 A. That's Officer Matt Hagins with the Springdale
7 Police Department.

8 Q. Okay. So I presume y'all take this -- the
9 defendant, Jake Fredrickson, into custody. What do
10 y'all do after that? What do y'all begin to do?

11 A. I then after that's done -- because based on
12 his demeanor, I'm not putting him in my patrol
13 vehicle with a dog in there. I then drive down the
14 driveway of where we were located, which is actually
15 729 Mimosa Drive, and began talking with Officer
16 Contreras and Watkins and I think a couple Lexington
17 County K9s with Ms. Spurlock, the other defendant,
18 about trying to get people situated in patrol
19 vehicles and whatnot.

20 Q. So you're responding to where the crashed
21 vehicle is?

22 A. Yes, sir.

23 Q. Who is that individual there?

24 A. That's me, sir.

25 Q. Okay. And are you walking towards where the

1 truck is?

2 A. Yes, sir.

3 Q. Okay. In relation to where we're looking right
4 now in the driveway, where is that truck?

5 A. That truck is to the left of myself right now
6 where I go in that gate. It's, basically, straight
7 ahead. Once I enter the gate, it's straight in
8 front of me.

9 Q. Is this where your vehicle stays until you
10 leave the scene?

11 A. Yes, sir.

12 Q. All right. Officer Poole, were you also
13 equipped with a body camera at the time of this
14 incident?

15 A. Yes, sir.

16 Q. Did you ever activate it for any period of
17 time?

18 A. Yes, sir.

19 MR. STORY: No objection.

20 BY MR. POGUE:

21 Q. Officer Poole, I'm handing you up what's marked
22 as State's Exhibit 17 for identification purposes.
23 Do you recognize that item?

24 A. Yes, sir, I do.

25 Q. What is that?

1 A. That's my body cam footage from that day.

2 Q. How do you know that?

3 A. Because I watched the video and I initialed and
4 dated it.

5 Q. Did you have a chance to watch the whole thing?

6 A. Yes, sir.

7 Q. And is it a fair and accurate reflection of the
8 events that you were able to capture on your body
9 camera?

10 A. Yes, sir.

11 MR. POGUE: Your Honor, at this time, the State
12 moves State's Exhibit 17 into evidence.

13 THE COURT: Any objection?

14 MR. SUTHERLAND: No, ma'am, no objection.

15 MR. STORY: No objection.

16 THE COURT: It's admitted.

17 (State's Exhibit No. 17 admitted into
18 evidence.)

19 MR. POGUE: Permission to publish, Your Honor?

20 THE COURT: Yes, sir.

21 BY MR. POGUE:

22 Q. So do you recall, Officer Poole, was it around
23 this time that you walked over there and activated
24 your body camera?

25 A. Yes, sir.

1 (Body cam played.)

2 Q. Who is this individual in the body camera?

3 A. That is the passenger of the vehicle.

4 Q. Do you recall the identification of that
5 passenger?

6 A. Yes, sir. That's Kelsay Spurlock.

7 Q. Do you see Kelsay Spurlock in the courtroom
8 today?

9 A. Yes, sir, she's sitting to my very left.

10 (Body cam video resumed.)

11 Q. Okay. Who was -- who is in the truck right
12 now?

13 A. That is Officer Contreras.

14 Q. What is he trying to do in the truck?

15 A. We're trying to get the vehicle, basically,
16 unstuck and drive it out to prevent having to get
17 the tow truck in some way, shape or form down to
18 where it is located to tow it out.

19 Q. The other individual we see there, is that the
20 property owner?

21 A. Yes, sir, I believe that's the property owner.

22 (Body cam video resumed.)

23 Q. Who were -- they just moved off screen, but who
24 were the individuals walking up from back in the
25 woods towards the truck there? You need me to

1 rewind it?

2 A. Just a little bit. But I believe that's going
3 to be Captain Manuel and Officer Hagins from
4 Springdale and Chief Watkins and that's Trooper
5 Valderio.

6 Q. Is that one of the Lexington County K9 officers
7 you were referring to?

8 A. Yes, sir.

9 Q. Who is that officer there?

10 A. That's Officer Manuel with Springdale.

11 Q. And the other one was?

12 A. Officer Hagins.

13 Q. Do you know why they were there?

14 A. They were asked as a responding agency to help
15 in the pursuit for assistance. Now, they're there
16 to help us because I can't transport -- Major
17 Watkins was at the time was there dealing with the
18 vehicle and whatnot -- of having a vehicle to put
19 the subjects in custody in that has a caged unit,
20 you know, that has the inserts for prisoner
21 transport.

22 Q. So they were there to transport Ms. Spurlock?

23 A. Yes, sir.

24 Q. The two officers that appeared, is that
25 Contreras and Chief Watkins?

1 A. Yes, sir.

2 Q. Why are y'all assisting Ms. Spurlock to the
3 other side of the fence?

4 A. We originally were going to have her
5 transported on the side of the fence that she was
6 on, so she was originally brought over the fence.
7 But since Captain Manuel and Officer Hagins were
8 going to transport for us, we had to get her back
9 over the fence because their patrol car was over
10 where Officer Contreras and Major Watkins' vehicle
11 was.

12 Q. Where --

13 A. Where the initial pursuit ended.

14 Q. Where Chief Watkins left his vehicle?

15 A. Correct.

16 Q. Did you turn your body camera off at that
17 point?

18 A. Yes, sir.

19 Q. After they took custody of her?

20 A. Yes, sir.

21 Q. At that point in time, did you have any
22 knowledge of contraband or narcotics that may
23 potentially be in the vehicle?

24 A. At that point in time, no, sir, I did not.

25 Q. Do you all have an inventory policy -- excuse

1 me, a tow policy at the Gaston Police Department?

2 A. Yes, sir.

3 Q. Was a decision made that that vehicle needed to
4 be towed?

5 A. Yes, sir.

6 Q. Okay. How did y'all get the vehicle out of the
7 wooded area, do you recall?

8 A. Where the pursuit ended or where Major Watkins
9 exited his vehicle, that property owner had a
10 tractor and he used the tractor to pull it out so it
11 could be hooked up to a tow truck because the tow
12 truck couldn't get back there.

13 Q. Do y'all have a policy of conducting what's
14 termed as inventory search to take account of all
15 the items in the truck prior to it being towed?

16 A. Yes, sir.

17 Q. Did you and/or other officers, Watkins, Arturo,
18 present or participate in an inventory search?

19 A. Yes, sir.

20 Q. Did you conduct that inventory search prior to
21 it being towed by the tractor out of the woods?

22 A. Yes, sir.

23 Q. Was it shortly after this video turned off or
24 body cam?

25 A. Yes, sir.

1 Q. State's Exhibit 8, do you recall the interior
2 of the truck?

3 A. Yes, sir.

4 Q. Do you recall what these items were right here
5 on the seat?

6 A. That's a pack of cigarettes and what appears to
7 be a white, crystal, rock-like substance.

8 Q. All right. Did you ever have a chance to see
9 what was in that bag on the floorboard in between
10 the two seats there?

11 A. Yes, sir.

12 Q. Did you ever see anybody remove anything that
13 appeared to be contraband of any sort or placed into
14 a bag that appeared to be contraband of any sort
15 prior to State's Exhibit 10, that photo being taken?

16 A. No, sir.

17 Q. What is this item here that's in -- this white,
18 circular item that's in the bag here?

19 A. That's what appears to be a bag of crystal,
20 rock-like substance consistent with the one on the
21 front seat, the smaller bag.

22 Q. Somebody who was sitting in the seat of that
23 vehicle, if they looked down into the bag, would
24 they be able to see that?

25 A. Yes, sir.

1 Q. Would they have to move anything in the bag to
2 see it?

3 A. No, sir.

4 Q. Do you recall who took possession and packaged
5 the contraband?

6 A. Yes, sir, that would be Chief Watkins.

7 Q. All right. And -- let's see. Do you recall
8 keep -- at Gaston Police Department, do y'all keep
9 what's commonly referred to as a chain of custody on
10 items you take into evidence?

11 A. Yes, sir.

12 Q. What is the purpose of that?

13 A. The purpose of that is so the integrity of the
14 evidence is maintained.

15 Q. And you can also make sure whoever has
16 possession of it is noted and accounted for at any
17 particular point in time?

18 A. Yes, sir.

19 Q. All right. You didn't happen to bring with you
20 a copy of the chain of custody that pertains to the
21 package that Chief Watkins --

22 A. I do not have a copy of it, sir.

23 Q. You do not. Were you in any way associated
24 with the evidence collection or logging, so to
25 speak?

1 A. Yes, sir.

2 Q. Of the BEST kit in this particular case?

3 A. Yes, sir.

4 Q. What did you do?

5 A. Once the initial officer or the arresting
6 officer places the narcotics into the BEST kit, they
7 then drop it back into the evidence drop box. As
8 the evidence custodian, I then check the evidence
9 drop box periodically or they send an e-mail out
10 saying hey, I dropped evidence in the drop box. So
11 then I get it out of the drop box and I enter it
12 into a prelog, what is called I-labs with SLED. And
13 that's how -- all agencies in South Carolina that
14 use SLED for analysis, you have to pre-enter that
15 into evidence now before you can take it to SLED and
16 drop it off. So I then enter the values into the
17 SLED -- log in and enter it into SLED's website and
18 then I take it over to SLED and drop it off.

19 Q. Okay. And did you transport the BEST kit in
20 this particular case either to or from SLED?

21 A. Yes, sir.

22 Q. And on what dates did you transport the BEST
23 kit?

24 A. On -- Sept -- I'm sorry, October 7th, 2019, at
25 9:00 a.m., I dropped the BEST kit off at SLED.

1 Q. Okay. Did you have any other involvement with
2 it?

3 A. Yes, sir. At -- July 17th of 2020 at 1400
4 hours or 2:00 p.m., I picked the BEST kit up from
5 SLED after it had been tested.

6 Q. Okay.

7 A. And then I dropped it off that same day, July
8 17th, 2020, at 1500 hours, 3:00 p.m. back into the
9 evidence room at Gaston PD.

10 Q. These chain of custody records, do you keep
11 those in the ordinary course of business at the
12 Gaston Police Department?

13 A. Yes, sir.

14 Q. After an inventory search of the vehicle was
15 conducted, do you recall what, if anything, you did
16 after that?

17 A. After the inventory, I then -- after the
18 vehicle was towed, we then went back to Gaston PD
19 headquarters.

20 Q. Did you ever go out to [REDACTED] Ben Spires Road?

21 A. Yes, we did go back there to meet with the
22 complainant of the original call of why we got
23 involved in this.

24 Q. Were you with Chief Watkins when he inspected
25 the residence there at [REDACTED] Ben Spires Road?

1 A. Yes, sir.

2 Q. Do you recall State's Exhibit 10? Do you
3 recognize this photo?

4 A. Yes, sir.

5 Q. Is that [REDACTED] Ben Spires Road?

6 A. Yes, sir, that's the front door.

7 Q. Is that an eviction notice there that's on the
8 front?

9 A. Yes, sir.

10 Q. Just briefly, what is that we're looking at in
11 State's Exhibit 14?

12 A. That's a photo of the back door.

13 Q. Just briefly back to State's Exhibit 10, I
14 forgot to ask you, what are these items in this bag?
15 Do you recall?

16 A. That is mail addressed to [REDACTED] Ben Spires Road.

17 Q. You were able to see that during the inventory
18 search as well?

19 A. Yes, sir.

20 MR. POGUE: No further questions, Your Honor.

21 THE COURT: Mr. Sutherland.

22 MR. SUTHERLAND: Briefly.

23 CROSS-EXAMINATION

24 BY MR. SUTHERLAND:

25 Q. In that bag, you testified there was mail and

1 there was the alleged drugs or dope. Do you
2 remember anything else in that bag?

3 A. I don't remember anything else other than the
4 alleged drugs or the dope or meth.

5 Q. And did you find or do you remember where a
6 digital scale was?

7 A. I remember seeing a digital scale, but I can't
8 tell you where it was located in the vehicle.

9 MR. SUTHERLAND: Appreciate it. No further
10 questions. Thank you.

11 THE COURT: Mr. Story?

12 MR. STORY: Thank you. No questions for this
13 witness.

14 THE COURT: Any redirect?

15 MR. POGUE: Nothing from the State, Your Honor.

16 THE COURT: Can I let Captain Poole down or
17 excused?

18 MR. POGUE: I don't know if either defense
19 counsel wants him to be subject for recall or not.

20 MR. SUTHERLAND: No, Your Honor.

21 MR. STORY: No, Your Honor.

22 THE COURT: All right. You're free to go.

23 Let me ask, Mr. Foreman, do y'all need a break
24 or anything?

25 THE FOREMAN: No, ma'am.

1 THE COURT: Then let's call your next witness.

2 MR. POGUE: Thank you, Your Honor. The State
3 calls Arturo Contreras.

4 ARTURO CONTRERAS

5 being first duly sworn, testified as follows:

6 THE WITNESS: Yes, ma'am.

7 THE CLERK: Once you have a seat, you can take
8 your mask off. State your name and spell your last
9 name for the record.

10 THE WITNESS: All right.

11 Arturo Contreras, last name is
12 C-O-N-T-R-E-R-A-S.

13 DIRECT EXAMINATION

14 BY MR. POGUE:

15 Q. Good afternoon. Is your rank Officer
16 Contreras?

17 A. Yes, sir.

18 Q. Where are you currently employed?

19 A. Springdale Police Department.

20 Q. How long have you been with Springdale?

21 A. August of 2020.

22 Q. August of 2020?

23 A. Yes, sir.

24 Q. Were you employed with law enforcement prior to
25 that?

1 A. Yes, sir.

2 Q. Where?

3 A. Swansea.

4 Q. Swansea, okay. What was your capacity, what
5 was your job description at Swansea PD?

6 A. I was a patrolman.

7 Q. Any other law enforcement experience prior to
8 that?

9 A. I did approximately six or seven months for the
10 Santee Police Department.

11 Q. Santee?

12 A. Uh-huh.

13 Q. Okay. On October 3rd, 2019, what agency were
14 you with?

15 A. Swansea Police Department.

16 Q. Okay. And do you recall how you became
17 involved in this particular incident -- or did you
18 become involved in this particular incident?

19 A. Yes, sir.

20 Q. All right. How did -- to what did you respond?

21 A. I was sitting roadside at IW Hutto and 321 with
22 another officer on shift and we heard a burglary
23 call come out and IW is probably a mile or two down
24 the road from Ben Spires, so we requested
25 monitoring. As soon as it turned into a pursuit and

1 requested assistance, I went out to go assist.

2 Q. Do you recall where you were when you initially
3 caught up to the pursuit, so to speak?

4 A. Yes, sir.

5 Q. Where were you?

6 A. If you recall in the video, there's a point in
7 time where they're go down a dirt road, I think it
8 was Thomas Lane, and then they come back out and go
9 almost head on with the chief of police when he's
10 coming wrong side, I guess, northbound -- no,
11 southbound on 321. I was at the intersection at
12 Wood Trail and 321 whenever they made the right-hand
13 turn on Wood Trail. I joined in at that point as
14 the third officer.

15 Q. So it was fairly early on in the pursuit?

16 A. Yes, sir, it was still on 321.

17 Q. And once you made contact with the suspect
18 vehicle and other law enforcement units, what did
19 you do?

20 A. I stayed -- I was the third unit, but then he
21 ended up going down the power lines and he went
22 through the fence and got back on Wood Trail. At
23 that point, I took secondary and I think stayed
24 secondary up until I catch them and that's when
25 Captain Poole took back secondary.

- 1 Q. What kind of vehicle were you in?
- 2 A. I was driving a 2019 Dodge Charger.
- 3 Q. So this wasn't an off-road vehicle that you
- 4 were in either?
- 5 A. No, sir.
- 6 Q. Did you stay within the vicinity or close by
- 7 Chief Watkins and the suspect vehicle, white truck,
- 8 at the time?
- 9 A. Yes, sir.
- 10 Q. And you were with them until the conclusion of
- 11 the pursuit?
- 12 A. Yes, sir.
- 13 Q. Tell me about that. Let me ask you this: Were
- 14 you present in the courtroom when the dash cams for
- 15 both Watkins and Poole were played?
- 16 A. Yes, sir.
- 17 Q. When did you stop your vehicle? Where were you
- 18 and what point?
- 19 A. As soon as we pulled onto what's called Woodrow
- 20 Boone, the dirt road with the house was, we were
- 21 held up by the tree line. So as soon as I saw Chief
- 22 Watkins run out into the woods, I ran behind him.
- 23 And we ended up chasing the truck on foot until he
- 24 gets out and we detained the female.
- 25 Q. So Chief Watkins was ahead of you on foot and

1 you were behind him. Were you the only two officers
2 that were on foot pursuing the vehicle?

3 A. Yes, sir.

4 Q. Tell me what happened after that.

5 A. As soon as we get up to the vehicle, we can see
6 the female in the passenger's side and we can see
7 the male defendant running through the yard, jumping
8 over the fence towards Mimosa. So we went and
9 secured and detained the female passenger. And at
10 that point, Chief Watkins took off after the male
11 suspect.

12 Q. What was your responsibility when he left you
13 there?

14 A. As far as me, I was an assisting agency, so at
15 that point, I played my role. I detained the female
16 and, basically, just stood by with the vehicle and
17 the female and made sure nothing was messed with, I
18 guess.

19 Q. Do you recall the identity of the female that
20 you pulled out of the truck?

21 A. Yes, sir.

22 Q. And who was that?

23 A. It was Kelsay Spurlock.

24 Q. Do you see Kelsay Spurlock in the courtroom?

25 A. Yes, she's on the far left.

1 MR. POGUE: Your Honor, we'd just ask that the
2 record reflect he's identified co-defendant Kelsay
3 Spurlock.

4 THE COURT: So noted.

5 Q. So if I understand your testimony, you stayed
6 behind with the truck and Ms. Spurlock while he
7 pursued the male driver, who we later learned was
8 who?

9 A. Jake Fredrickson.

10 Q. Do you see that individual in the courtroom?

11 A. Yes.

12 Q. Would you point him out?

13 A. He's wearing the plaid shirt second to the
14 left.

15 MR. POGUE: Your Honor, we would also ask the
16 record reflect that he has identified the other
17 co-defendant in this case, Jake Fredrickson.

18 THE COURT: So noted.

19 Q. Just so I understand your testimony, you're
20 saying you're standing by with the vehicle and also
21 maintaining custody of the female, Ms. Spurlock,
22 occupant. At some point, did other units come to
23 assist you?

24 A. Yes.

25 Q. Okay. All right. And when those law

1 enforcement officers arrived, what did you do after
2 that?

3 A. As soon as the other officer arrived and Chief
4 Watkins made it back, as you see in the video, he
5 asked me to see if we could take it out because the
6 tow truck wasn't going to be able to make it. That
7 was before we had knowledge of any tractor. I was
8 going to try to put it in reverse and go down the
9 trail. So I got in the driver's side, put it in
10 reverse and tried to back it out.

11 Q. And when you were in the vehicle, did you
12 notice anything of significance when you were trying
13 to move the vehicle or some point shortly
14 thereafter?

15 A. Yes, sir. As soon as I got in the driver's
16 seat, it was in plain view, you couldn't miss it.
17 It was a bag, kind of like, almost like a cooler bag
18 and it was right here and there was just a bag of a
19 big crystal-like substance.

20 Q. I'm showing you State's Exhibit 8. Could
21 you -- do you have a laser pointer up there?

22 A. Yes.

23 Q. Using the laser pointer, could you show me
24 where it was you noticed this larger bag of what you
25 believe could have been contraband or narcotics?

1 A. I was in the front seat and the bag of crystal
2 was inside this black and highlighter yellow bag
3 right here.

4 Q. Did you touch or have to move anything around
5 in that bag to see that bag?

6 A. No, sir. It was sitting right there in plain
7 view. I didn't touch anything.

8 Q. After moving the vehicle, did you tell anyone
9 about what you saw in the vehicle?

10 A. Yes, sir. I advised Chief Watkins.

11 Q. Okay. What did Chief Watkins do after that?

12 A. Basically, after I unsuccessfully backed out
13 the vehicle, I walked back to Chief Watkins and I
14 told him that there was a possible bag of narcotics,
15 looked pretty significant. And he just -- he asked
16 me if I touched anything, I told him no. He just
17 kind of held the scene and I think he went and took
18 pictures.

19 Q. Without telling me anything that she said, did
20 you ask any questions of Ms. Spurlock when you had
21 her in custody?

22 A. No, sir.

23 Q. And can you tell me anything about -- again,
24 without saying anything that she said, just her
25 general demeanor and behavior?

1 A. She was very frantic, kind of all over the
2 place, just talking without any really point of
3 direction. She was just kind of rambling.

4 Q. Okay.

5 MR. POGUE: No further questions.

6 MR. SUTHERLAND: Briefly, may it please the
7 Court, Your Honor?

8 THE COURT: Yes, please.

9 CROSS-EXAMINATION

10 BY MR. SUTHERLAND:

11 Q. Sir, how are you?

12 A. Good. How about you, sir?

13 Q. I'm doing well. I'm Tivis. Good to meet you.
14 That pack of Newports that was in there, that's been
15 showing up on there. Was that closed and somebody
16 pulled the little bag out of there -- when you were
17 in there and you looked over, was it just a closed
18 pack of cigarettes or did you even see it?

19 A. I don't recall seeing it.

20 Q. Do you recall anything else in that bag that
21 you looked in or just, basically, seen contraband?

22 A. No. I just saw the contraband and saw it was
23 pretty significant.

24 Q. I gotcha.

25 MR. SUTHERLAND: Thank you, Your Honor.

1 THE COURT: Mr. Story?

2 MR. STORY: Briefly, Your Honor.

3 CROSS-EXAMINATION

4 BY MR. STORY:

5 Q. Officer Contreras, you actually backed that
6 truck up from where it was lodged in the trees,
7 right?

8 A. I attempted to, yes.

9 Q. You attempted to. It was lodged in there
10 pretty good, huh?

11 A. Yes, sir.

12 Q. Were you there when they removed it?

13 A. No.

14 Q. So you weren't there when they removed the
15 truck. Okay. Briefly, about the pack of Newports,
16 you removed Ms. Spurlock from the passenger's seat,
17 right?

18 A. Uh-huh.

19 Q. And that pack of Newports, it wasn't crushed or
20 anything, was it? It looked like --

21 A. From the photo I saw, it didn't look crushed.

22 Q. So from the photo you saw, it didn't look like
23 it was crushed?

24 A. No.

25 MR. STORY: Thank you. No further questions.

1 THE COURT: Thank you, Mr. Story.

2 Mr. Pogue, any redirect?

3 MR. POGUE: Nothing from the State, Your Honor.

4 THE COURT: May I let Officer Contreras -- can
5 I excuse him, Mr. Story?

6 MR. STORY: Yes.

7 THE COURT: Mr. Pogue?

8 MR. POGUE: Yes, sir.

9 THE COURT: All right. Mr. Foreman, I'm going
10 to let y'all take a break. I think we have two more
11 witnesses for this afternoon, but I'm going to give
12 you a 15-minute break. Okay?

13 Remember no talking about this case amongst
14 yourselves, on phones, internet or anything else.
15 Thank you.

16 (The jury exits the courtroom at 3:19 p.m.)

17 THE COURT: All right. We'll be in recess for
18 about 15 minutes. Then we got two more, right?

19 MR. POGUE: I think we're trying to get the
20 chemist here. I think the chemist will be here and
21 we can do him today as well. I thought we could try
22 to work till 5:00.

23 THE COURT: Okay, that's good.

24 (Short recess.)

25 THE COURT: All right. Are we ready to go on?

1 MR. POGUE: Yes, ma'am, Your Honor. Yes.

2 THE COURT: Okay. Let's bring the jury in.

3 (The jury enters the courtroom at 3:50 p.m.)

4 THE COURT: Mr. Foreman, we ready?

5 THE FOREMAN: Yes, ma'am.

6 THE COURT: All right. Call your next witness.

7 MR. POGUE: The State calls Chris Manuel.

8 CHRIS MANUEL

9 being first duly sworn, testified as follows:

10 THE WITNESS: I do.

11 THE CLERK: Once you have a seat, you can take
12 your mask off. State your full name and spell your
13 last for the record.

14 THE WITNESS: Christopher Manuel, M-A-N-U-E-L.

15 DIRECT EXAMINATION

16 BY MR. POGUE:

17 Q. Good afternoon, is it Captain?

18 A. Yes, sir.

19 Q. Captain Manuel. Where are you currently
20 employed?

21 A. Town of Springdale.

22 Q. In what capacity?

23 A. I'm the operations commander, assistant chief.

24 Q. Is that the Springdale Police Department?

25 A. Yes, sir.

1 Q. How long have you been there?

2 A. Since 2014.

3 Q. And you've been employed in that same capacity
4 since 2014?

5 A. I came through the ranks. I started as a
6 patrolman.

7 Q. Very briefly, what are some of the roles that
8 you've had at Springdale?

9 A. Patrolman, patrol corporal, which was patrol
10 supervisor, same thing, sergeant, very briefly
11 sergeant and promoted to captain.

12 Q. Do you have any law enforcement experience
13 prior to Springdale?

14 A. I started in 2010 as a state constable, I did
15 that for a few years, then I worked at the Lexington
16 County Detention Center for just a little over a
17 year before I joined the Department of Springdale.

18 Q. Okay. Were you employed at Springdale on
19 October 3rd, 2019?

20 A. Yes.

21 Q. Okay. Same capacity, as a captain?

22 A. Yes.

23 Q. What were you doing that day?

24 A. At that time, I had Officer Hagins, we were a
25 two-man unit. He was an FTO. He was new with our

1 department --

2 MR. POGUE: Just to help the court reporter
3 out, if you can talk a little more slowly.

4 THE WITNESS: Sorry, it's habit.

5 Q. It's okay. I do the same thing. I'm sure she
6 would like for us to slow down just a little so she
7 can get everything down.

8 A. So I had Officer Hagins in field training, he
9 was new with our department. We were just on
10 routine patrol that day. And we're on the same
11 radio channel dispatched by Lexington County and the
12 call came out for Gaston for the burglary in
13 progress. At that point in time, we didn't do
14 anything. We just continued doing whatever it was
15 we were doing at that time.

16 Q. And at some point, did you respond to the
17 pursuit in Gaston?

18 A. We did when they began asking for help. Of all
19 the agencies responding, we were, I guess, likely
20 the furthest department out. So we did respond
21 knowing that if there was a bush bond, which was
22 referenced earlier, if there was a bush bond that we
23 could assist with perimeter for that.

24 Q. Okay. And you said you and Officer Hagins were
25 together. Were y'all riding in the same unit?

1 A. Yes.

2 Q. What type of vehicle were y'all in?

3 A. It was a Chevy Caprice.

4 Q. Okay. Was it equipped with a dash cam or any
5 sort of technology like that?

6 A. It was not. It was a spare vehicle. It did
7 not have a dash cam.

8 Q. I think I may have cut you off. You said you
9 did respond to the pursuit?

10 A. Yes, sir.

11 Q. Where did you first respond to, what area?

12 A. First, we responded to Mimosa Drive. By the
13 time we got there, I believe they had just pulled
14 the defendant out of the culvert, so there wasn't a
15 perimeter necessary. But then they asked for
16 somebody to transport the female defendant. So we
17 moved from Mimosa to -- my apologies, I forget the
18 name of that road, that two-rut road.

19 Q. Woodrow Boone sound familiar?

20 A. Yes, sir, yes. Back there where the vehicles
21 were parked, we made our way back there and Officer
22 Hagins and I exited our vehicle and walked into the
23 woods to where the pickup truck came to rest.

24 Q. Were you in the courtroom when Captain Poole or
25 Officer Poole's body cam was played?

1 A. Yes, sir.

2 Q. At the very end of that video, was that you and
3 Officer Hagins that took custody of Ms. Spurlock
4 over the wire fence?

5 A. Yes, that was me that actually lifted her over
6 the fence.

7 Q. Had y'all just walked up on the truck scene at
8 that point in time?

9 A. Yes.

10 Q. Okay. And just take me from there. What were
11 y'all -- what was the purpose of y'all taking
12 custody of Ms. Spurlock? How were y'all going to
13 assist?

14 A. At that point, we were just going to walk
15 around to our vehicle. It was very hot that day.
16 And somebody needed to maintain custody of somebody
17 that's being detained or in custody, so we -- the
18 Gaston units had other things they had to worry
19 about, the vehicle primarily. It had to be gotten
20 out of the woods in some form or fashion. So we
21 volunteered to walk her up to our vehicle and put
22 her in our vehicle and just sit on her at that
23 point.

24 Q. Okay. And at some point in time, after
25 y'all -- you and Officer Hagins walked back with Ms.

1 Spurlock to where you had parked on Woodrow Boone,
2 the residence at Woodrow Boone, was that near where
3 Chief Watkins had left his vehicle when he pursued
4 the truck on foot?

5 A. That's correct.

6 Q. All right. And so when you brought her back to
7 your vehicle, y'all -- you said you placed her in
8 the vehicle?

9 A. Yes.

10 Q. In the back?

11 A. Yes.

12 Q. All the. At -- what happened after that?

13 A. Shortly after that, somebody had -- I don't
14 know which property he owns, but a property owner
15 used his tractor to bring the truck out. The --

16 Q. Let me ask you this question: At some point,
17 did you ever take custody of the male defendant in
18 this case, Jake Fredrickson?

19 A. Not at that point. We did shortly thereafter.

20 Q. And I should have asked you this earlier, can
21 you see the female individual, Ms. Spurlock, in the
22 courtroom?

23 A. Yes, she's sitting at the far end of defense
24 table.

25 Q. And do you see the male, the co-defendant in

1 this particular case -- or the individual you took
2 into custody, I should say, in this courtroom?

3 A. Yes, sitting next to the attorney at the far
4 right there.

5 Q. And tell me about Ms. Spurlock's behavior when
6 y'all took custody of, her demeanor in general?

7 A. Erratic. She seemed to be rambling about
8 nothing that was really decipherable.

9 Q. All right. Was she sweating?

10 A. Yes. It was very hot that day for October.
11 But as you saw in the video, just like Officer
12 Hagins is wearing now in the courtroom, we were in
13 full uniform with body armor and it was hot. But as
14 you saw in the video, she wasn't wearing a whole lot
15 of much and she was sweating.

16 Q. Okay. When you took custody of Mr.
17 Fredrickson, what did you do with him at that point
18 in time?

19 A. When we finally took custody of him, we also
20 put him in the back of our patrol car with
21 Ms. Spurlock.

22 Q. At that point, had y'all indicated how y'all --
23 were y'all going to assist them him in some form or
24 fashion at that point?

25 A. Yes. I know Chief Watkins and, at that time,

1 Captain Poole were discussing how they were going to
2 get them transported to the detention center and
3 everything else they had to deal with, property
4 damage, et cetera from the pursuit. I told Chief
5 Watkins don't worry about it, we'll transport them
6 for you. I had a trainee. He needed the experience
7 booking people in the jail anyway, so I just
8 volunteered that we would transport them to the jail
9 for him.

10 Q. So did you and Officer Hagins both transport
11 them?

12 A. Yes.

13 Q. And they both rode in the back of the unit that
14 you had?

15 A. Correct.

16 Q. Tell me about what happened -- was there any
17 behavior that took place in the back seat that you
18 took note of?

19 A. It was very strange.

20 Q. Tell me about that.

21 A. Generally speaking, when two people are
22 arrested and there's drugs or whatever involved,
23 they're always mad at each other. In this case, the
24 two defendants were more like Bonnie and Clyde.
25 They were very lovey-dovey --

1 MR. SUTHERLAND: Judge, if I may, Bonnie and
2 Clyde is not --

3 Your Honor, I move to strike that.

4 THE COURT: Let me address the jury. I'm going
5 to strike the Bonnie and Clyde. Do not pay any
6 attention to it. Wipe it from your minds and do not
7 consider it as evidence in this case.

8 THE WITNESS: My apologies, Your Honor.

9 THE COURT: That's okay.

10 THE WITNESS: As I was saying, they were very
11 lovey-dovey.

12 BY MR. POGUE:

13 Q. They were affectionate?

14 A. They were affectionate, yes. They sat very
15 close together. They were not discussing the
16 predicament they might have just gotten themselves
17 in. They were talking about how they might contact
18 each other --

19 MR. STORY: Objection, hearsay, Your Honor.

20 Q. Don't tell me about anything that they said --

21 THE COURT: Hang on, it's hearsay. So I'm
22 going to strike that too from the record.

23 So rephrase it, Mr. Pogue.

24 BY MR. POGUE:

25 Q. Captain Manuel, I'm just asking strictly, you

1 know, with regard to what their behavior was, not
2 anything that they discussed or may not have
3 discussed. Were you paying attention closely to
4 what they were saying?

5 MR. STORY: Objection Your Honor. Behavior
6 would be a sort of conduct. The solicitor also just
7 asked a question that called for hearsay.

8 MR. POGUE: What was the question I asked that
9 called for hearsay?

10 MR. STORY: You just asked a question asking --

11 MR. POGUE: May we approach, Your Honor?

12 THE COURT: Yes.

13 (Sidebar conference.)

14 THE COURT: All right. We're going to move on.

15 MR. POGUE: Thank you, Your Honor.

16 Q. So after you placed them in the back of the
17 patrol vehicle, I assume after that, you transported
18 them?

19 A. Yes.

20 Q. Other than that, did you have any other
21 involvement in the case whatsoever?

22 A. I did not.

23 MR. POGUE: No further questions.

24 THE COURT: Thank you.

25 Mr. Sutherland?

1 MR. SUTHERLAND: No questions for this witness.

2 THE COURT: Mr. Story?

3 MR. STORY: No questions for this witness.

4 THE COURT: May I excuse Captain Manuel then?

5 MR. SUTHERLAND: Yes, Your Honor.

6 MR. STORY: Yes, Your Honor.

7 THE COURT: I'm going to give you one second
8 for housekeeping. We've got housekeeping coming in.

9 You want to call your next witness.

10 MR. POGUE: Thank you, Your Honor. The State
11 calls Matthew Hagins.

12 MATTHEW HAGINS

13 being first duly sworn, testified as follows:

14 THE WITNESS: Yes.

15 THE COURT: Once you have a seat, you can take
16 your mask off. State your name and spell your last
17 name for the record.

18 THE WITNESS: Matthew Hagins, H-A-G-I-N-S.

19 DIRECT EXAMINATION

20 BY MR. POGUE:

21 Q. Good afternoon, is it Officer Hagins?

22 A. Yes.

23 Q. Where are you currently employed?

24 A. Town of Springdale.

25 Q. Were you employed there also on October 3rd,

1 2019?

2 A. I was.

3 Q. And how long have you been altogether with
4 Springdale?

5 A. Two years.

6 Q. Had you had any law enforcement experience
7 prior to your tenure at Springdale?

8 A. I worked for Lexington Medical Center Public
9 Safety for one year.

10 Q. Did you attend the academy prior to that?

11 A. I did with Lexington Medical Center.

12 Q. Moving to October 3rd, 2019, tell me what you
13 were doing that day?

14 A. As Captain Manuel stated, I was in training. I
15 had just started with Springdale Police Department
16 and we were out patrolling.

17 Q. And at some point in time, did you respond to
18 the pursuit that was taking place in Gaston?

19 A. We did.

20 Q. How did with y'all respond? To where did you
21 response?

22 A. We went to Mimosa Drive where, at the time,
23 Chief Watkins stated he had last seen the defendant
24 running.

25 Q. Without -- you're doing fine. If you could

1 just testify without saying what other people said,
2 just what you from your own personal knowledge,
3 okay?

4 A. Okay.

5 Q. So when you arrived at Mimosa, were you able to
6 see a male individual that was taken into custody?

7 A. Yes, sir.

8 Q. Do you see that individual in the courtroom?

9 A. I do. He's sitting the second one in on the
10 table.

11 Q. After you were there on Mimosa and witnessed
12 that, did you and Captain Manuel do anything else
13 related to the case?

14 A. No, sir. We left that location and went back
15 to where the pursuit had ended.

16 Q. So you did do other things related to the case,
17 just not at that location?

18 A. Correct, yes, sir.

19 Q. Where did you go next you said?

20 A. Woodrow Boone where the pursuit ended, where
21 Chief Watkins left his patrol vehicle.

22 Q. What did you and Captain Manuel do when you
23 arrived there?

24 A. When we arrived, we exited our patrol vehicle
25 and walked through the woods where Officer Contreras

1 and Captain Poole had the female defendant located
2 at.

3 Q. Okay. What did you do when you arrived?

4 A. Assisted the female defendant over the fence
5 and then we took and placed the female defendant in
6 our patrol vehicle.

7 Q. Okay. I'm going to play you a very short
8 portion of State's Exhibit 2, which is Chief
9 Watkins' dash cam.

10 (Dash cam video played.)

11 BY MR. POGUE:

12 Q. Who is that individual there? Do you recognize
13 them?

14 A. That's Captain Manuel.

15 (Video resumed.)

16 Q. Okay. And who are these two people here on the
17 left of the screen?

18 A. The female defendant and that is myself.

19 Q. Okay. And are you taking her to your vehicle
20 at that point in time?

21 A. I am.

22 (Video resumed.)

23 BY MR. POGUE:

24 Q. Okay. Again, without telling me anything that
25 she said, how would you describe her behavior, her

1 demeanor?

2 A. Erratic. She was sweating.

3 Q. Okay. Were you at some point after this, with
4 Captain Manuel when you took custody or when he says
5 he took custody of the male, the co-defendant in
6 this case, Jake Fredrickson?

7 A. What was your question?

8 Q. I'll rephrase. Were you with Captain Manuel
9 when he took custody of the male in this case,
10 co-defendant, Jake Fredrickson?

11 A. Yes, sir, just because he was taken over by us
12 in our patrol car.

13 Q. What happened at that point when y'all took
14 custody of him?

15 A. He was secured in the back seat of my patrol
16 car with the female defendant.

17 Q. And would you -- how would you describe the
18 dynamic -- without saying anything about what they
19 said either verbal or nonverbal communications, how
20 would you describe their demeanor toward one another
21 in the back seat of the vehicle?

22 A. Lovey-dovey.

23 MR. POGUE: No further questions.

24 THE COURT: Mr. Sutherland?

25 MR. SUTHERLAND: No questions, Your Honor.

1 THE COURT: Mr. Story?

2 MR. STORY: Briefly.

3 CROSS-EXAMINATION

4 BY MR. STORY:

5 Q. How are you doing, Officer? It was very hot
6 that day, right?

7 A. Correct.

8 Q. Pretty much everybody -- you were sweating,
9 correct?

10 A. Correct.

11 Q. And you were in the courtroom for the last
12 witness, too, correct?

13 A. Correct.

14 MR. STORY: Thank you. That's all the
15 questions I have for this witness.

16 THE COURT: May I excuse Officer Hagins?

17 MR. POGUE: The State has no objection.

18 THE COURT: Mr. Story?

19 MR. STORY: Yes, Your Honor.

20 THE COURT: All right. Officer Hagins, you're
21 excused.

22 MR. POGUE: Can I get the Court's brief
23 indulgence?

24 THE COURT: Take your time.

25 (Pause.)

1 THE COURT: Are we ready to call our next
2 witness?

3 MR. POGUE: Your Honor, may we approach just
4 very briefly?

5 THE COURT: You can.

6 (Sidebar conference.)

7 THE COURT: All right. Mr. Pogue, call your
8 next witness.

9 MR. POGUE: Your Honor, the issue we just
10 discussed, I just need to discuss that with my next
11 witness.

12 THE COURT: Absolutely. Take your time.

13 MR. POGUE: Thank you, Your Honor.

14 THE COURT: Okay.

15 MR. POGUE: The State calls Lynn Black.

16 LYNN BLACK

17 being first duly sworn, testified as follows:

18 THE CLERK: After you have a seat, you may
19 remove your mask. State your name and spell your
20 last for the record.

21 THE WITNESS: My name is Lynn Black, B-L-A-C-K.

22 DIRECT EXAMINATION

23 BY MR. POGUE:

24 Q. Good afternoon, Ms. Black. Where are you
25 currently employed?

1 A. I am a drug chemist in the drug analysis
2 section of the forensic service laboratory at South
3 Carolina Law Enforcement Division, commonly know as
4 SLED.

5 Q. How long have you been working in that
6 capacity?

7 A. I've worked at SLED, it will be 13 years this
8 week, actually.

9 Q. And have you been a drug analysis chemist your
10 entire tenure there or have you performed other
11 tasks or duties?

12 A. No, I've been a drug chemist there the entire
13 13 years.

14 Q. Prior to your employment in that capacity as a
15 chemist at SLED, were you previously employed in
16 that same line of work with another law enforcement
17 agency?

18 A. Yes, prior to SLED, I worked at the Georgia
19 Bureau of Investigation in Atlanta, Georgia for
20 about eight years as a drug chemist there as well.

21 Q. And how about prior to that?

22 A. Prior to that, no, I was not in law
23 enforcement. I was a medical technologist in a
24 hospital.

25 Q. And what is your educational background?

1 A. I have a Bachelor of Science Degree in
2 chemistry from Kentucky Wesleyan College, a
3 certificate of medical technology from the
4 University of Louisville, and a Master of Science
5 Degree in forensic science from Marshal University.

6 Q. And what sort of training have you received
7 specifically focused on chemical analysis as it
8 relates to narcotics and drug analysis?

9 A. I successfully completed the drug analysis
10 training at the Georgia Bureau of Investigation when
11 I began there and, also, the one at SLED. And I've
12 also attended numerous conferences and seminars in
13 drug analysis as well over the years.

14 Q. Do you have off the top of your head an idea of
15 how many hours of education or continuing education
16 you've received in that line?

17 A. Off the top of my head, I try to go to training
18 every year. Sometimes -- I mean, last year, of
19 course, was unusual. So probably, if I calculate
20 that, you know, two or three days' worth every year
21 and maybe eight hours a day. I'm not sure how much
22 that would calculate, I'd have to get a calculator
23 out. I try to go to training just to keep up to
24 date on the newest drugs that are coming out and the
25 newest techniques as well.

1 Q. Have you ever been qualified as an expert as a
2 drug chemist and drug ID in other cases prior to
3 this?

4 A. Yes, I have.

5 Q. How many times have you testified as an expert
6 in that field?

7 A. I've testified 144 times, and that includes 100
8 times in Georgia and 44 times here in South
9 Carolina.

10 Q. Okay.

11 MR. POGUE: Your Honor, at this time, the State
12 would move for Ms. Black to be qualified as an
13 expert in the area of chemical drug identification.

14 THE COURT: Any objection?

15 MR. SUTHERLAND: No voir dire, no objection,
16 Your Honor.

17 THE COURT: Mr. Story?

18 MR. STORY: No objection.

19 THE COURT: Let me address the jury just for a
20 second.

21 Normally, a person cannot give opinion
22 testimony. Usually, what witnesses testify to is
23 something they either saw, heard or sensed by smell
24 or something of that nature. However, we have an
25 exception when someone is qualified because of their

1 education and experience. They are permitted to
2 give their opinion in certain areas if the Court
3 qualifies them that way. This witness will be
4 qualified in the area of chemical drug
5 identification --

6 Is that right?

7 MR. POGUE: And analysis, drug analysis.

8 THE COURT: And analysis. And she's going to
9 give her opinion. She's going to give opinion
10 testimony in that area. That does not mean that you
11 must accept the opinion, but it is evidence for you
12 to use any way you see fit.

13 With that said, go ahead, Mr. Pogue.

14 BY MR. POGUE:

15 Q. Ms. Black, at any point in time, did you ever
16 receive a BEST kit related to the case for which
17 we're on trial right now?

18 A. Yes, I did.

19 Q. Let me rewind one step. And I asked Officer
20 Poole earlier about this: At SLED, do y'all keep
21 what's known as a chain of custody in regard to
22 items that are submitted for testing, whether it be
23 drugs or any sort of item?

24 A. Yes, we do.

25 Q. Explain to me a little bit about that process,

1 how that works.

2 A. In general, evidence is brought by a law
3 enforcement personnel to SLED. And depending on
4 what the evidence is, it may be brought in person.
5 It may be dropped off in lockers that evidence can
6 be placed into that are -- once they place the
7 evidence in, it's locked and no one else has access
8 to it except for evidence technicians in our
9 evidence control section. And then those evidence
10 technicians log in the information in the evidence
11 and give it unique bar code numbers and bar code
12 stickers. So that bar code is then used to track
13 that piece of evidence wherever it goes at SLED.

14 Q. Okay. And can you tell me what the BEST kit
15 number -- or let me rewind one more step. Could you
16 explain to the jury what a BEST kit is?

17 A. Yes, the BEST kit is a unique situation. It's
18 only for drug evidence. And BEST is an acronym for
19 best evidence sample testing. It's a way that we
20 came up with to kind of streamline how drug evidence
21 is submitted. It consists of a manilla envelope
22 that has what we call a BEST kit number. It's a B
23 number because it starts with a B. And it's got a
24 bar code that we can also scan -- actually, you
25 don't really scan that, but we could. But it's

1 connected with the B number. And inside of that is
2 a tamper evidence bag plus all the paperwork that
3 the agency submitting the evidence would need to
4 fill out when they bring it in.

5 So what they so is place the evidence in that
6 tamper evidence bag, seal it up, fill out all the
7 paperwork. They usually place it back into that big
8 manilla envelope and that's how they usually submit
9 it to SLED.

10 And then once we get it, like I said, the
11 evidence technicians will take it and use the
12 information from the forms to input that into our
13 computer system, our laboratory information system
14 and generate a unique crime lab case number, which
15 is a bar code sticker and they'll place it on --
16 usually on the envelope, manilla envelope that
17 everything is in.

18 And when I test the evidence, I don't keep that
19 manilla envelope, but I keep the tamper evidence bag
20 inside and I will place the sticker actually on
21 another bag that I place that bag into, which I
22 think we'll get to see here in a minute. So that
23 bar code sticker, again, is what they use to track
24 it. So the evidence technician will scan that bar
25 code to them so our chain of custody, it will show

1 it's in their custody. Then they'll scan it to a
2 particular place in the evidence vault and so we'll
3 know it went to shelf whatever number in the vault.

4 And then when I come down to pick it up, it
5 goes back to the possession of whoever has given it
6 to, that technician, and then it will be in my
7 possession. They'll scan it to me. So our chain of
8 custody will show every place that that piece of
9 evidence, whoever touched it or wherever it was.

10 Q. And you keep that chain of custody in the
11 ordinary course of business there at SLED when you
12 track these items?

13 A. We do.

14 Q. Is it tracked by what they call a SLED lab
15 number or BEST kit number or both?

16 A. The lab number, but you can also find it under
17 the BEST kit number as well, yes.

18 Q. Okay. I'm handing you what's been previously
19 marked as State's Exhibit 12 for identification
20 purposes. Can you tell me if this particular item
21 was submitted for testing at SLED, or that
22 particular BEST kit?

23 A. Yes, it was.

24 Q. Okay. And can you tell me when it was -- let
25 me ask this question: Did you bring a chain of

1 custody as it relates to the BEST kit number of
2 State's Exhibit 12 that I handed up to you?

3 A. I do.

4 Q. What is that BEST kit number?

5 A. The BEST kit number is B252831.

6 Q. Okay. And when was that BEST kit submitted for
7 testing?

8 A. According to the records that I have, it was
9 submitted on, looks like, November 5th, 2019 or, at
10 least, that -- excuse me, that may not be when it
11 was actually submitted, that was when it was
12 retrieved from lockers by the forensic technician.

13 Q. Okay. When the BEST kit number was submitted,
14 are you able to tell me based upon the chain of
15 custody that you keep where it moved after it was
16 submitted, who it went to?

17 A. Yes, sir, I can.

18 Q. If you could, just tell me where it was up to
19 the point where you received it, if you did?

20 A. As I said, it was retrieved from the lockers on
21 November 5th, 2019, and placed in -- that was
22 received by Jackie Davis, who's a forensic
23 technician -- who was a forensic technician, I
24 should say. It was then placed in the drug evidence
25 intake storage, which is a particular place in the

1 evidence room at SLED. And then, March the 24th of
2 2020, Forensic Technician Doris Yarborough retrieved
3 it from the evidence intake storage and gave it to
4 me. That was, again, March 24th, 2020.

5 Q. When a BEST kit is received into your
6 possession, are you able to tell at all if it's been
7 tampered with or opened prior to you receiving it?

8 A. When I go to start prepping the case, I look at
9 the envelope with the tamper evident bag very
10 closely. If I notice that it's been tampered with
11 or there's a hole in it or cut in it, then I make a
12 note of that in my case note. And we also will
13 place -- it will be on our report, too, that it was
14 not submitted in a sealed fashion.

15 Q. Was the BEST kit in this particular case sealed
16 when you received it?

17 A. It was sealed, yes.

18 Q. So there was nothing facially that seemed to be
19 out of place with the BEST kit that you received?

20 A. No, sir.

21 Q. All right. And when you received the BEST kit
22 for testing -- or did you pick it up from the locker
23 to take it to perform your analysis or was it
24 delivered to you?

25 A. No, sir. I picked it up from evidence control

1 from Doris Yarborough. I may not have tested it
2 that day. I might have placed it in my evidence
3 vault in our section, in the drug analysis section
4 that we keep evidence in. Each scientist has their
5 own area in that vault as well. If I can look at my
6 notes here, I can tell you.

7 Yeah, I retrieved -- I got that from evidence
8 control on March 24th, 2020, and I did the analysis
9 or started the analysis, I should say, April 13th,
10 2020. So it was in -- I gained custody of it and
11 then I placed it in our evidence vault in the drug
12 section until April 13th.

13 Q. And when you received it, tell me what you did
14 after that?

15 A. What I --

16 Q. Let me rephrase that. What is the process by
17 which you go about performing an analysis?

18 A. Yes. When I received this -- as I said,
19 usually, this comes in a big manilla envelope. You
20 can see this bag inside of here. That's the actual
21 tamper evident bag that comes in the manila
22 envelope. It's called -- that was actually the BEST
23 kit, I would say.

24 So I check it to make sure, as I said, for any
25 tampering or anything. The seal is at the top of

1 it. This one is folded over to fit in this other
2 bag. And I cut the other end of it away from the
3 seal and I take the evidence out. Depending on the
4 evidence, I have to take an inventory of all the
5 evidence. I have to weigh powders and rock
6 substances and things like that. And then I --

7 Do you want me to go into more detail about how
8 analysis goes or you just want the general?

9 Q. I will let you be the judge of that. It
10 doesn't have to be particularly involved. However
11 brief you think you can describe that to the jury
12 and also be enough for them to make an assessment.

13 A. Do you want me to reference the items in this
14 particular case?

15 Q. Yes, ma'am.

16 A. Okay. So in this particular case, there were
17 several zip lock bags. The first one had a white
18 oblong tablet. In that case --

19 Q. I tell you what, Ms. Black, let me stop you
20 right there.

21 A. Okay.

22 Q. I'm handing you up what's marked as State's
23 Exhibit 19 for identification purposes. Do you
24 recognize that document?

25 A. It appears to be a copy of the report that I

1 generated in this particular case.

2 Q. Okay. And what is the -- let me ask you this:
3 Does the BEST kit number and the lab number on the
4 report match the BEST kit number and lab number on
5 the -- I think it's State's Exhibit 12 that I handed
6 up to you?

7 A. Yes, they do match.

8 Q. Okay. And does that appear -- does that report
9 appear to relate to the items that you performed
10 analysis on in State's Exhibit 12?

11 A. Yes, it does.

12 MR. POGUE: Your Honor, at this time, the State
13 would move the -- I think it's State's Exhibit 19
14 into evidence?

15 THE COURT: Any objection, Mr. Sutherland?

16 MR. SUTHERLAND: No, Your Honor.

17 THE COURT: Mr. Story?

18 MR. STORY: No objection.

19 THE COURT: It's admitted without objection.

20 (State's Exhibit No. 19 admitted into
21 evidence.)

22 BY MR. POGUE:

23 Q. Okay. Now, we can proceed. If you will take
24 us through the items that were submitted for testing
25 and what your analysis was of each item?

1 A. Okay. The first item was a zip lock bag that
2 contained a white oblong tablet that did not appear
3 to have any markings on it. This tablet, I weighed.
4 I got a net weight. How that works is, it was in a
5 zip lock bag, but I took it out of the zip lock bag
6 and on my valance, I would place a piece of weighing
7 paper that I would tear or zero out that weight of
8 paper and place the tablet on it and that gives me a
9 net weight. So the net weight of this one tablet
10 was 0.29 grams.

11 And then I went on to do what's called a color
12 or a chemical test. It's, basically, just a
13 preliminary test. It just gives you an indication
14 of what the substance may or may not be. In this
15 particular case, I did not get a color reaction --
16 well, let me back up. What happens is we have
17 special chemicals that we use that are made up
18 specifically for different classes of drugs, so I
19 used one that's like a general kind of color test
20 and placed a small amount of the tablet in that
21 solution and it gave no color change. If it gave me
22 a color change, it may tell me what class of drugs
23 it might be and it might tell me, you know, some
24 path to go down. But it didn't in this case, it did
25 not.

1 But I went on to take a small portion of that
2 tablet for my analysis. In this particular case, I
3 did -- it's an instrumental test called gas
4 chromatography mass spectrometry, which I know is a
5 big mouthful. So we call it GCMS, which is a lot
6 shorter. So I did that instrument test and came up
7 with the substance being positive for
8 methamphetamine.

9 In the next bag --

10 Q. What was the confidence level for that
11 particular item 1.1?

12 A. The confidence level, which is what we have on
13 our report, that's actually for the weight. The
14 confidence level for the weight is 99.7 percent. So
15 my confidence level for what the substance is, is
16 100 percent. But the weight -- it's because we also
17 have what's called a measurement of uncertainty.
18 Our report actually says the net weight was 0.29
19 plus or minus .01 grams.

20 Now, that plus or minus, that's called
21 measurement of uncertainty. Because any measurement
22 that you do has uncertainty. I mean, think about
23 your car odometer. If you drive along and it says
24 you've gone a mile, have you gone exactly a mile?
25 Have you gone approximately a mile? You don't

1 really know. So any measurement, even weights like
2 this have some uncertainty. So we've calculated our
3 uncertainty in the drug lab to be .01 in this
4 particular case. So the weight that I reported was
5 .29. The uncertainty is .01. So that means the
6 weight could actually be between .28 and .30.

7 So my confidence in that is, as I said before,
8 99.7. That is -- the true value of this weight is
9 between .28 and .30. And that's all that means. So
10 the confidence that this is methamphetamine, I'm 100
11 percent sure this is methamphetamine.

12 Q. So the item 1.1 was .29 grams and we're talking
13 about a very small fraction of a potential
14 distribution in weight one way or the other?

15 A. Correct.

16 Q. All right. So moving on to item 1.2?

17 A. Now, this was a white round tablet. The other
18 one was oblong. This one was white. Again, I could
19 not discern any markings. I did weigh this one as
20 well, and it came out to be .40. Again, it has that
21 uncertainty of .01. Again, the true weight could be
22 between .39 and .41 grams. So, again, very small
23 amount.

24 This one, I also did the GCMS test, the gas
25 chromatography mass spectrometry test, and also the

1 chemical and color test. This one, I found to be
2 positive for methamphetamine and cocaine.

3 Q. So it was a mixture?

4 A. Correct.

5 Q. And then you said the weight of that was .40,
6 correct?

7 A. That's correct.

8 Q. Moving along to 1.4?

9 A. This one contained five white tablets and there
10 were markings on this one that were GPI and then
11 A15. This one, I did not do a test on because we
12 are allowed to go by the markings. We have websites
13 and also some -- mostly websites we use to identify
14 tablets and we get pharmaceutical markings. So this
15 one came -- the markings indicated that it was
16 acetaminophen, just an over-the-counter pain
17 reliever. So no test were done. We're able to say
18 that it's indicated just based on the physical
19 characteristics, which is the markings.

20 Q. So acetaminophen, is that just Tylenol?

21 A. Correct.

22 Q. So item 1.5?

23 A. This one had a couple of different bags in it.
24 And, typically, I will segregate them depending on
25 what they're in. For this one, I have two plastic

1 bags and then I had a zip lock bag. So I
2 distinguished those because they are different. So
3 I put the two plastic bags together. So I had two
4 plastic bags that contained crystal substance. The
5 zip lock bag also contained a crystal substance, but
6 I'm going to address the two plastic bags first.

7 So I weighed one of them and got the net weight
8 to be 54.74 grams. Again, we have that plus or
9 minus .01. So you can add and subtract the .01,
10 which doesn't really affect that weight a whole lot.
11 And again, I found methamphetamine.

12 The other bag, the second plastic bag in this
13 exhibit, I did not test. It had a gross weight of
14 3.26 grams. Because the first one weighed over 28
15 grams, which is a statutory threshold, we have a
16 policy in our department in the drug analysis lab
17 that we do not have to test any other bags unless it
18 takes us up to the next threshold. The next one
19 would 100. So 3.26 grams plus 54 is not going to be
20 anywhere near 100 grams. So all I did was take the
21 first weight and that's reported in my report.

22 So the zip lock bag contained a crystal
23 substance. I did a similar thing. I did not do a
24 full testing of it. I did a net weight of that and
25 it weighed 0.84. And, again, we have the plus or

1 minus 0.1 grams. I did do the indicative test, the
2 color and chemical test. And it gave me the same
3 result as the crystal substance in the other
4 exhibit.

5 I forgot to mention that I did do -- I believe
6 I did a different test on that one. Yes. I did not
7 do GCMS on this one. I did something called Fourier
8 Transformed Infrared Spectroscopy. Again, another
9 mouthful. We shorten it to FTIR. That's another
10 instrumental test that gives me definitive answers
11 as to what the drug can be. So the methamphetamine
12 that weighed 54.74 grams, one of the two plastic
13 bags in this exhibit, that's the technique I used.
14 And also the chemical and color test, I did that as
15 well. So the zip lock bag that I only did the
16 chemical and color test gave me the same color and
17 reaction as the 54.74 gram bag in the other exhibit.

18 Q. And just to put it in layman's terms, the item
19 1.51 was like by far the largest bag in the BEST
20 kit?

21 A. Correct.

22 Q. That bag alone, I believe your testimony was
23 just by itself takes it over the 28 gram statutory
24 threshold, the next one statutory threshold after
25 that being 100 grams; is that correct?

1 A. That is correct.

2 Q. So I think what your testimony was, was that
3 because you have far exceeded the 28 gram statutory
4 threshold and when you make an assessment or initial
5 weight of what's left, it doesn't come close to 100
6 grams, it kind of moots the issue of testing the
7 rest of it because even if it is methamphetamine, it
8 doesn't get you over the next statutory threshold,
9 which is 100 grams; is that correct?

10 A. That is correct.

11 Q. Is it just a policy that helps you save time,
12 money, and resources?

13 A. That is correct.

14 Q. But you did do a preliminary test that did
15 indicate it was methamphetamine, the item -- the
16 remaining item 1.52, did I understand that
17 correctly?

18 A. Yes, yes, the zip lock bag.

19 Q. And what was the weight of that? That was 0.84
20 grams?

21 A. 0.84 grams, correct.

22 Q. All right.

23 MR. POGUE: Your Honor, at this time, the State
24 would also move State's Exhibit 12, the BEST kit,
25 into evidence as well.

1 THE COURT: That was marked for ID only
2 earlier.

3 Any objection, Mr. Sutherland?

4 MR. SUTHERLAND: No objection.

5 THE COURT: Mr. Story?

6 MR. STORY: No, Your Honor.

7 THE COURT: Admitted without objection.

8 (State's Exhibit No. 12 admitted into
9 evidence.)

10 Q. One last thing, Ms. Black, could you tell me
11 when the item was picked up, BEST kit picked up from
12 SLED? Do you have the chain of custody that
13 indicates that?

14 A. When the evidence was returned?

15 Q. When it was returned to the agency, yes, ma'am?

16 A. Yes, that was returned to the agency on July
17 17th, 2020.

18 Q. Okay. All right. And let me ask you this
19 question: From the time that you -- evidence was
20 submitted to SLED, is it in your agency's sole care,
21 custody and control based on the chain of custody
22 that you keep in the ordinary course of business?

23 A. Yes.

24 MR. POGUE: No further questions, Your Honor.

25 THE COURT: Thank you, Mr. Pogue.

1 Mr. Sutherland?

2 MR. SUTHERLAND: No questions, Your Honor.

3 THE COURT: Mr. Story?

4 MR. STORY: No questions, Your Honor.

5 THE COURT: May I excuse Ms. Black?

6 MR. POGUE: I believe that would be fine with
7 the State, Your Honor.

8 MR. SUTHERLAND: Yes, Your Honor.

9 MR. STORY: Yes, Your Honor.

10 THE COURT: Let me see the lawyers just for a
11 minute so I can kind of keep the jury updated on
12 what's going on. I think they're probably ready to
13 go home.

14 (Sidebar conference.)

15 THE COURT: All right. Mr. Foreman, I'm going
16 to let the jury go for the day. Honestly, I
17 anticipate that this will be given to y'all tomorrow
18 for deliberation, just so you can kind of make some
19 plans. But remember, no computer, no looking up
20 anything. No going home and calling your best
21 friend and say hey, you won't believe what I heard
22 today in court. Don't do it. Don't even discuss it
23 amongst yourselves.

24 I have another hearing early in the morning at
25 8:30, so I'm going to ask y'all to report at 9:30.

1 If y'all could be in the jury room by 9:30 because
2 I'd like to start at 9:30.

3 With that said, I hope y'all have a very good
4 evening. I know it's been a long day, but we got a
5 lot done. So thank you.

6 That's all. You can go back to the jury room
7 and be excused for the day.

8 (The jury exits the courtroom at 4:52 PM.)

9 THE COURT: I wanted to put this on the record
10 because we had a side bar concerning the drug
11 analysis report and the testimony of Ms. Black. In
12 the drug analysis report, it contained a statement
13 about a burnt cigarette that was not tested. There
14 was no analysis performed. The defendant, Mr. Story
15 and Mr. Sutherland felt it should be redacted. I
16 think it should be, too. If you give it the
17 analysis under 403, a burnt cigarette, I didn't want
18 the jury to infer -- they could infer probably
19 anything they wanted to, but I think it's
20 prejudicial so I asked that it be redacted and the
21 State graciously agreed. So I just wanted to put
22 that on the record.

23 Is there anything from the State I need to hear
24 before we close -- I mean, we adjourn for the day?

25 MR. POGUE: Your Honor, I'm sure I'll regret

1 this, but other than just reviewing the jury charge,
2 I can't think of anything off the top of my head
3 that needs to be brought to your attention.

4 THE COURT: Well, my law clerk just printed the
5 new jury charges for everybody. If you will please
6 look over them tonight. We added the mere presence.
7 I think there was something --

8 Mr. Pogue, you wanted the trafficking statute
9 added, which we did.

10 MR. POGUE: The joint possession?

11 THE COURT: Yes --

12 MR. POGUE: That drugs can be possessed by two
13 individuals.

14 THE COURT: Yes, we added that in. Like I
15 said, we added expert witness. I just wanted y'all
16 to look it over. Please read it.

17 MR. STORY: Could we have an e-mailed copy or
18 just pick it up?

19 THE COURT: We have it right here. This is
20 going to be your midnight reading.

21 MR. POGUE: My son will love it. Puts him to
22 sleep fast.

23 THE COURT: I'm sorry, I'm a paper person. If
24 you want it e-mailed, Mr. Story, we'll be more than
25 happy to e-mail it to you.

1 MR. STORY: I'll just pick up a paper copy.

2 THE COURT: So look at it and read it because I
3 expect to charge the jury tomorrow and I want to be
4 prepared. I don't want to be wasting time. Seems
5 like that happened to me last week during a trial,
6 nobody could decide on anything. So read it, I want
7 your thoughts and we'll discuss it. I do have an
8 8:30 plea in the morning, so we'll start at 9:30.

9 Anything else, Mr. Pogue?

10 MR. POGUE: I can't think of anything, Your
11 Honor.

12 THE COURT: Mr. Sutherland?

13 MR. SUTHERLAND: No, Your Honor.

14 THE COURT: Mr. Story?

15 MR. STORY: No, Your Honor.

16 THE COURT: All right. I have an issue about
17 bond. I want to hear about bond from you, Mr.
18 Pogue, because the trial has started. I know Mr.
19 Fredrickson is detained and I need to hear about the
20 other co-defendant.

21 MR. POGUE: Thank you, Your Honor. The State
22 is of the position that, obviously, Ms. Spurlock's
23 bondsman has been relieved on bond. She's appeared
24 for trial. We're well along into that trial at this
25 particular point in time. I think that out of an

1 abundance of caution, she needs to be taken into
2 custody. It's only going to be, you know,
3 presumably, be one night since we intend to give it
4 to the jury tomorrow. The case should include
5 tomorrow. So I believe, Your Honor, that's the
6 appropriate action to take just to assure we won't
7 have any issues.

8 THE COURT: Mr. Pogue, correct me if I'm wrong,
9 this is a mandatory seven to 25?

10 MR. POGUE: That's correct, Your Honor.

11 THE COURT: Mr. Story, I'll be glad to hear
12 from you.

13 MR. STORY: May it please the Court, Your
14 Honor. South Carolina code section 17-15-20(b)
15 states that unless a bench warrant is issued and
16 appearance recognizant or appearance bond is
17 discharged upon adjudication, Your Honor. So our
18 argument is bond remains throughout adjudication.

19 In addition to that, she is neither a risk --
20 she's not a danger to the community, she's not a
21 flight risk. She's made four appearances that I
22 could give Your Honor. She showed up for jury
23 qualifications Monday. She showed up voluntarily
24 here today. She has been a resident of South
25 Carolina since she was eight years old. She has,

1 essentially, no record, a DUAC, I believe, in 2011.
2 No felonies. Your Honor, I would strongly oppose
3 revocation.

4 THE COURT: I understand, Mr. Story, but also,
5 you know, the Court looks at she's looking at a
6 mandatory seven to 25 years. That's some pretty
7 serious time. I'm going to take her into custody.

8 We'll start at 9:30 in the morning. Anything
9 else?

10 MR. POGUE: Nothing from the State, Your Honor.

11 THE COURT: Okay. I'll see y'all in the
12 morning. Thank you.

13 (The following proceedings were held September
14 16, 2021.)

15 THE COURT: All right. Evidently, y'all were
16 busy last night.

17 MR. SUTHERLAND: And this morning.

18 THE COURT: Mr. Story, is this your motion?

19 MR. STORY: I'm sorry, what motion? I
20 apologize. I was responding to Mr. Pogue. I'm
21 opposing his motion, I believe, to put the language
22 in the jury charge. I think that's what the e-mail
23 was about.

24 THE COURT: As far as charging the lesser
25 included offense?

1 MR. STORY: No, Your Honor. The language of
2 the jury charge --

3 THE COURT: Let me get a copy of the jury
4 charges.

5 MR. STORY: I have no opposition to them at
6 this point. I didn't think we were at directed
7 verdict because the State hasn't rested.

8 THE COURT: That's right, we're not. I'm
9 reading all this stuff that y'all are arguing over.
10 The e-mails I received are, I think, at directed
11 verdict stage.

12 MR. STORY: Your Honor, last night, I read your
13 jury charges. When I got up early this morning,
14 there was an e-mail from Mr. Pogue agreeing with
15 some of the case law that Mr. Sutherland -- and I
16 think I may have missed an e-mail from Mr.
17 Sutherland. I don't think I got the e-mail that
18 said he was asking for a lesser included -- asking
19 for a directed verdict.

20 Mr. Pogue asked for a jury charge that,
21 basically, says if the doors were locked, that means
22 they didn't have permission to enter. And my
23 argument is I'm objecting because that's reducing
24 their burden because they're, essentially, saying
25 it's a crime to go in. And, therefore, they can --

1 I'm not really sure exactly what they're saying, but
2 it's saying that -- lessening their burden of proof
3 that there was an intent to commit a crime there.

4 THE COURT: Well, looks to me like he's
5 agreeing that's it's not a burg third and he wants
6 to lesser included charge.

7 MR. STORY: Yes, Your Honor.

8 THE COURT: Of a burg third from a burg second.
9 But I don't think I've gotten there yet because he
10 hasn't finished presenting his case.

11 MR. STORY: Right, Your Honor. That's my
12 understanding.

13 THE COURT: Okay. Other than that, did
14 everybody look at the jury charges? I understand
15 we're going to have that issue come up when we
16 finish this case and I'll decide then after I hear
17 all the testimony. But anything else about the jury
18 charges?

19 MR. SUTHERLAND: I'm fine with them.

20 MR. POGUE: Other than what I put into the
21 e-mail, Your Honor, I don't have anything to add at
22 this particular time if we're going to address that
23 at a later point.

24 THE COURT: Right. I think we'll address that
25 probably when you rest.

1 MR. POGUE: Sounds good, Your Honor.

2 MR. STORY: Your Honor, my only response to the
3 e-mail to give the Court an idea of what I'm going
4 to be arguing just for the sake of time, it's not my
5 intention to put all my arguments in an e-mail.

6 THE COURT: Right, right, I got you. And I
7 appreciate it because it gives the Court time to do
8 some research before you give me your full argument.

9 MR. STORY: Thank you, Your Honor.

10 THE COURT: All right. Are we ready?

11 MR. POGUE: The State is ready, Your Honor.

12 THE COURT: Mr. Story?

13 MR. STORY: We're ready, Your Honor.

14 THE COURT: All right. Let's bring them in.

15 (The jury enters the courtroom at 9:38 AM.)

16 THE COURT: All right. Is the jury ready?

17 THE FOREMAN: Yes, ma'am.

18 THE COURT: All right. Let's call your next
19 witness.

20 MR. POGUE: Thank you, Your Honor. The State
21 calls Mike Merckle.

22 MR. STORY: Your Honor, briefly, I want to
23 renew my objection to 402 and 403 to this witness.
24 It was made in limine, Your Honor.

25 THE COURT: It's noted for the record.

1 MR. STORY: Thank you, Your Honor.

2 MICHAEL MERCKLE

3 being first duly sworn, testified as follows:

4 THE WITNESS: Yes, ma'am, I do.

5 THE CLERK: Once you have a seat, you can take
6 your mask off. State your name and spell your last
7 name for the record.

8 THE WITNESS: Yes, ma'am. My name is Michael
9 Samuel Merckle, last name is spelled M-E-R-C-K-L-E.

10 DIRECT EXAMINATION

11 BY MR. POGUE:

12 Q. Good morning, Agent Merckle. How are you
13 doing?

14 A. Good morning. Doing well.

15 Q. Could you please tell the jury where it is that
16 you're currently employed?

17 A. I'm currently employed with Lexington County
18 Sheriff's Department as a narcotics investigator.

19 Q. Okay. And what are your duties and in what
20 capacity do you work as a narcotics investigator?

21 A. I'm assigned to the DEA, the Drug Enforcement
22 Administration HIDA group, which stands for high
23 intensity drug trafficking area in the Columbia
24 district office. I've been there approximately five
25 years.

1 And what we do -- or what I do specifically is
2 I investigate a very complex, long-term narcotic
3 cases that involve drug trafficking organizations or
4 DTOs, much like you see on TV in all these movies
5 and such here within the State and around the
6 nation.

7 Q. Okay. How long have you been employed in that
8 capacity?

9 A. Approximately 12 years.

10 Q. So you've been conducting narcotics
11 investigations of that nature for 12 years?

12 A. I have, narcotics investigations, purchases,
13 undercover purchases, CI management, that type of
14 stuff, yes.

15 Q. Okay. And do you have any law enforcement
16 experience prior to the -- prior to your capacity
17 working as a narcotics investigator?

18 A. Yes, sir, I do.

19 Q. And what is your law enforcement background
20 prior to that? Just kind of give us a brief history
21 of that.

22 A. I graduated the South Carolina Criminal Justice
23 Academy in 1999, so I've been a sworn law
24 enforcement working on 23 years, give or take. I've
25 been working for Lexington County Sheriff's

1 Department coming up on my 18th year. I started out
2 as a road deputy, clean cut, no beard, answering
3 calls, day-to-day operations, the background of the
4 department. I then transitioned into a supervisory
5 role with the sheriff's department on the road,
6 supervising a group of individuals on a shift. And
7 then moved into an operator on the SWAT team. I was
8 transferred into the gang unit where I did specific
9 biker gang investigations for quite some time and
10 then transferred into the narcotics division.

11 Q. And have you had any specific training or
12 continuing education classes or programs as it
13 relates to narcotics investigations?

14 A. Yes, sir.

15 Q. Tell us a little bit about that.

16 A. On top of continuous training that we have
17 throughout the year, I've been to many narcotic
18 trafficking investigation schools and classes,
19 methamphetamine specific related classes for
20 manufacturing of methamphetamine, manufacturing of
21 cocaine, how to deal with fentanyl, just a -- run of
22 the gambit of the drugs we're seeing in South
23 Carolina as well as around the nation.

24 Q. And during the course of your narcotics
25 investigations, do you conduct what are called

1 controlled buys?

2 A. Yes, sir, I do.

3 Q. Can you explain very briefly what controlled
4 buys are and what they entail?

5 A. Sure. So a controlled buy is either done with
6 an informant. People call them confidential
7 informants or CSes, CIs, you'll hear multiple
8 different terms, but it's either a civilian trying
9 to assist themselves or assist law enforcement in
10 the drug trade to try to help us interdict. Or an
11 undercover officer to go in, which is strictly
12 controlled by law enforcement from start to finish,
13 meaning that law enforcement provides the documented
14 money, they control every aspect, every stage of the
15 operation from the meeting point to where they're
16 going to meet to sell or buy the drugs, where we're
17 going to meet to turn the drugs over the law
18 enforcement. And during that operation, it's
19 constant surveillance, whether it's through
20 technical means, surveillance from other officers or
21 other agents in the area, electronic devices, that
22 types of stuff. It's very structured.

23 Q. So, specifically, as it relates to controlled
24 buys and narcotics investigations, do you have to be
25 aware and up to date, so to speak, as to the street

1 value of various narcotics, specifically, like
2 crystal methamphetamine?

3 A. Absolutely. The prices fluctuate from place to
4 place, location to location, obviously, in regions
5 as well as supply and demand. So you have to stay
6 on top of the prices so that number one, we don't
7 find ourselves in a position where we're overpaying
8 for narcotics or attempting to overpay for an amount
9 of narcotics which would throw a red flag up to our
10 bad guy or our target and say, oh, this must be the
11 police, they're paying way more than what anybody
12 else would really pay for an ounce of marijuana or
13 cocaine or what have you.

14 Q. And during your narcotics investigating
15 experience, do you have much experience dealing with
16 crystal methamphetamine?

17 A. Yes, extensive experience dealing with
18 methamphetamine, the manufacturing process, the
19 trafficking process, yes, sir.

20 Q. All right. And have you ever been qualified as
21 an expert witness before?

22 A. Yes, sir, I have.

23 Q. How many times?

24 A. Approximately five times here in General
25 Sessions court in Lexington County.

1 Q. And what are the areas of expertise that you've
2 previously been qualified as an expert?

3 A. General narcotics as well as CI management,
4 trafficking in narcotics, specifically, to
5 methamphetamine as well as the manufacturing process
6 of methamphetamine.

7 Q. Have you ever testified before with regard to
8 the values of drugs?

9 A. Yes, sir. That goes into the general. I guess
10 I should have been more specific, but, yes, sir.

11 MR. POGUE: Your Honor, at this time, the State
12 would move to have Agent Merckle qualified as an
13 expert in narcotics investigations, specifically as
14 it relates to street valuations.

15 THE COURT: Mr. Sutherland?

16 MR. SUTHERLAND: If I may voir dire question?

17 THE COURT: Sure.

18 VOIR DIRE EXAMINATION

19 BY MR. SUTHERLAND:

20 Q. Sir, about the price of meth over the last
21 three or four years, it has gone through the floor,
22 hasn't it?

23 A. Yeah -- well, it fluctuates, but yes, it has
24 changed. You know, there was a time period when it
25 was \$1,500 an ounce and now it's much less than

1 that, yes, sir.

2 THE COURT: Mr. Story?

3 MR. STORY: Briefly -- well, let me back up.

4 No, Your Honor, no objection to him being qualified
5 as an expert.

6 THE COURT: Let me address the jury. Normally,
7 like I told you yesterday, a person cannot give
8 opinion testimony. However, there is an exemption
9 when someone is qualified because of their education
10 or experience, they are permitted to give their
11 opinion in certain areas. This area will be in the
12 general narcotics investigations, specifically,
13 the --

14 MR. POGUE: Your Honor, the street value of --

15 THE COURT: The street value for drugs. I'm
16 going to tell you, as the jury, you give this
17 opinion testimony the weight you see fit. You don't
18 have to accept it. You can give it the credibility
19 you want to just like any other witness. Okay?
20 Thank you.

21 MR. POGUE: Thank you, Your Honor.

22 CONTINUED DIRECT EXAMINATION

23 BY MR. POGUE:

24 Q. Agent Merckle, are you familiar with had SLED
25 drug analysis reports?

1 A. Yes, sir, I am.

2 Q. Okay. All right. I imagine you are also
3 familiar with BEST kits, SLED BEST kits?

4 A. Yes, sir.

5 Q. I'm handing you up what's been admitted as
6 State's Exhibit 12, which is methamphetamine that
7 was recovered in this particular case. I'm going to
8 have you just kind of take a look at what you can
9 see there in the bag, and then I'm also going to
10 publish this report for you to take a look at as
11 well. And when you feel like you've had enough time
12 -- well, I'll tell you what, I'll let you peruse it
13 yourself first before I put it up on the screen.

14 A. All right.

15 Q. Let me know when you've had enough time to look
16 at it.

17 A. Okay.

18 Q. All right. So by my rough math, which --

19 MR. STORY: Sorry to interrupt, but may I see
20 what he's looking at before it's published to the
21 jury?

22 MR. POGUE: State's Exhibit 19. It's already
23 admitted.

24 BY MR. POGUE:

25 Q. As I was saying, again, my math is not

1 spectacular, but by my rough calculation, it looks
2 like the total amount of methamphetamine by weight
3 according to this report is something just shy of 60
4 grams total, was that --

5 A. Yes, sir.

6 Q. Okay. Having you take a look at what's in the
7 bag there, what would you in your expert opinion say
8 that the value of nearly 60 grams of methamphetamine
9 that you see there in that bag, what was the street
10 value of that methamphetamine in October of 2019 in
11 your expert opinion?

12 A. In '19, I believe the crystal that's in this
13 bag, excluding the pills themselves because those
14 would be sold separately, not by weight, if that
15 makes sense, anywhere 400 to \$600 an ounce. So we
16 have roughly two ounces, maybe a hair more, so about
17 8 to \$1,000 if you were to sell it by the ounce.

18 Now, narcotics in and of itself is a weight
19 game, if you will. The more weight you have, the
20 more money you can make. When it comes to this type
21 of narcotic, cocaine powders and marijuana, it's all
22 sold by the gram.

23 So if somebody were to sell this in gram
24 amounts, you could make considerably more. So if
25 you have 60 grams of methamphetamine and you sell it

1 for approximately \$60, even 30 to \$60 a gram, you
2 may make upwards of \$3,600 on just this amount
3 versus selling it in bulk. You know, like when you
4 buy at Cosco or what have you, when you buy bulk,
5 you get a little discount. It's kind of the same
6 scenario. So that's why you would pay a little less
7 if you bought the product all at one time.

8 Q. Just so I understand what your testimony is,
9 depending on whether you quote, unquote sell it
10 wholesale or separate it out individually in smaller
11 amounts, smaller increments, the value of the
12 methamphetamine in that BEST kit on the low end, on
13 wholesale is somewhere between potentially 800 to
14 \$1,000 --

15 A. Yes, sir.

16 Q. -- on the low end? Up to \$3,600 if you
17 separate it all out into grams on the high end?

18 A. Correct.

19 Q. Okay. You mentioned the pills that were in the
20 BEST kit. Can you give the jury a little bit of an
21 idea of how those are made or what makes those
22 different than the other meth in the bag since
23 you've noted the difference?

24 A. Sure. So when it comes to pills, what we see
25 around the country, I'm sure everybody has seen on

1 the news these clandestine pressed pills or
2 counterfeit pills. Now, I wouldn't know these are
3 necessarily counterfeit unless it was tested and
4 shown to be that.

5 These pills that contain methamphetamine in my
6 opinion would be a pill that you don't just go to
7 the pharmacy and get. Doctors, typically, don't
8 give that out as a prescription these days. A long,
9 long time ago, they may have, but these days, it's
10 very, very rare. So, typically, these are sold by
11 the milligram.

12 So let's say if you have a 30 milligram pill,
13 it's, typically, a dollar a milligram, so that pill
14 might cost you \$30 just for that one pill. So give
15 or take about a dollar a milligram. So we have to
16 determine what the milligram of each pill generally.

17 Q. Sure.

18 MR. POGUE: No further questions, Your Honor.

19 MR. SUTHERLAND: May it please the Court,
20 Judge?

21 THE COURT: Yes.

22 CROSS-EXAMINATION

23 BY MR. SUTHERLAND:

24 Q. Sir, just briefly, so 28 grams an ounce, 48 --
25 so that's 56 grams for two ounces?

1 A. Yes, sir.

2 Q. And that is pretty much in one package, so it
3 may look like somebody had bought just a couple of
4 ounces of methamphetamine by looking at that
5 evidence?

6 A. Yes.

7 Q. And did you testify it was 2 to 400 or is it 2
8 to \$400 now?

9 A. It's roughly 4 to \$600 an ounce.

10 Q. Would that be 4 to 6 back then?

11 A. Back then and, give or take, now. It's an ever
12 changing, but approximately, yes, sir.

13 Q. It is. All right. So it would cost somebody
14 potentially \$800 to get a couple ounces like that?

15 A. Sure, yes, sir.

16 MR. SUTHERLAND: Thank you.

17 No further questions, Your Honor.

18 THE COURT: Thank you, Mr. Sutherland.

19 Mr. Story?

20 MR. STORY: Briefly.

21 CROSS-EXAMINATION

22 BY MR. STORY:

23 Q. Officer Merckle, you had no direct involvement
24 in this case, right?

25 A. No, sir, not at all.

1 Q. Your opinion is just based on what you're
2 seeing today?

3 A. Yes, sir.

4 MR. STORY: Thank you.

5 THE COURT: Any redirect?

6 MR. POGUE: No redirect, Your Honor. And the
7 State does not oppose him being excused.

8 MR. SUTHERLAND: He can go, Judge.

9 MR. STORY: No opposition.

10 THE COURT: Agent Merckle, thank you for
11 coming. You're free to go.

12 THE WITNESS: Thank you.

13 THE COURT: Mr. Pogue, call your next witness.

14 MR. POGUE: Thank you, Your Honor. At this
15 time, the State rests.

16 THE COURT: Okay.

17 Mr. Foreman, I'm going to send the jury back to
18 the jury room so I can take up a couple matters with
19 the lawyers. The State has rested. I'll call you
20 back in. It won't take us long, probably about 15
21 minutes.

22 Remember, no talking about this case amongst
23 yourselves, cell phones social media, anything.
24 Okay? Call your back in a second.

25 (The jury exits the courtroom at 9:58 AM.)

1 THE COURT: Any motions?

2 MR. SUTHERLAND: Thank you, Your Honor. May it
3 please the Court. At this time, I would move for
4 the Court to direct a verdict of acquittal on the
5 burglary second degree nonviolent. They did not
6 establish that someone was living there at the time
7 with any of their witnesses. And I would oppose
8 burglary third degree as a lesser included that the
9 State has requested, in that burglary second degree
10 nonviolent is a crime against habitation and
11 possession of the premises where burglary third is
12 just a crime against the -- burglary second is a
13 crime against the possession and habitation.
14 Burglary second violent is a crime against the
15 possession aggravated by firearms and, you know,
16 prior offenses going in at night. In other words,
17 subsection A of the statute covers people living
18 there; and subsection B of the statute covers
19 buildings or vacant places.

20 So when they decided to indict him for burglary
21 second nonviolent, there is no lesser included of
22 burglary third as there is in subsection B where the
23 burglary third is aggravated up to burglary second
24 violent. In other words, if they had indicted him
25 for whatever reason for burglary second violent,

1 then burglary third would be a lesser included of
2 that. But because it is subsection A and not
3 subsection B, it is not a lesser included offense of
4 habitation of the crime. Basically --

5 THE COURT: Do you have any case law on that?

6 MR. SUTHERLAND: Your Honor, I've asked my
7 buddies because we just sort of got into this. I
8 had gone to sleep about ten minutes before he sent
9 that e-mail. I've got buddies looking for it. I
10 looked. I couldn't find anything in the time that I
11 had other than talking about burglary period.

12 THE COURT: I can't find anything either. I
13 mean, all the elements are there; are they not?

14 MR. SUTHERLAND: Well, I would argue that a
15 dwelling is different than a building. Otherwise --
16 the legislature --

17 THE COURT: Well, I think we're agreeing it's
18 not a dwelling. I read it, there was nobody living
19 there. I'm with you.

20 MR. SUTHERLAND: Yes, ma'am.

21 THE COURT: The question becomes is, is it a
22 burg third. So tell me what is the -- why shouldn't
23 it be a lesser included?

24 MR. SUTHERLAND: Yes, ma'am. I will say that
25 the legislature passed -- drafted that statute.

1 They drafted two sections. Section A was for crimes
2 against habitation and possession, and section B was
3 for crimes against possession. Under section B,
4 burg third is only aggravated to a burglary second
5 degree to burglary second violent. In other words,
6 in the statute, burglary third is a lesser included
7 offense of second violent. But it is not in the
8 statute of burglary second nonviolent and the
9 penalties are different. It's zero to ten for
10 nonviolent and zero to 15. So I would argue that
11 the legislative intent was to separate those two
12 because they did separate them in two subsections
13 and they are two different offenses. And I'm going
14 to check and see if anybody has sent anything.

15 THE COURT: Okay.

16 MR. STORY: May it please the Court, Ms.
17 Spurlock joins in that motion.

18 THE COURT: I figured as much, Mr. Story.

19 MR. SUTHERLAND: This is my buddy, Micha, who's
20 a real technical. He's saying the same thing that I
21 was just trying to say. And also, argue that the
22 amendment to the indictment would change the nature
23 of the offense, which is not permissible under
24 17-19-100. And again, that change nature of the
25 offense, would be changing it from an offense

1 against habitation to an offense -- to a property
2 crime, basically, Your Honor.

3 THE COURT: Mr. Pogue, let me hear from you --
4 oh, Mr. Graham.

5 MR. GRAHAM: Thank you, Judge. Burglary third
6 is a lesser included of any burglary second, whether
7 it's an A or B section. My understanding is that
8 any building would include a dwelling, but a
9 dwelling is not necessarily a building. And that's
10 how I've grown up prosecuting burglary cases for the
11 last 25 years, otherwise, it's not a crime. I mean,
12 breaking into a building would not be a crime under
13 what Mr. Sutherland has argued.

14 THE COURT: Right. I understand that argument
15 completely.

16 MR. SUTHERLAND: It would be. It would be a
17 burglary third degree or if there are aggravating
18 circumstances, it would be a burglary second degree
19 violent. Again, two separate sections, two separate
20 crimes. We have a property crime under subsection B
21 and under subsection A, we have a crime against
22 habitation because those dwelling crimes are crimes
23 against the people inside. It has to be the
24 inhabitant.

25 THE COURT: Anything else?

1 MR. GRAHAM: No, Your Honor.

2 THE COURT: Anything else, Mr. Story?

3 MR. STORY: Not as to that issue, Your Honor.

4 THE COURT: I understand your argument, Mr.
5 Sutherland, but I'm going to deny it. There's been
6 testimony there's an eviction notice on the door.
7 Both the Spires testified that nobody -- they did
8 not give them consent to be there. Now, whether the
9 intent to commit a crime, I really think it's a jury
10 question. That's up to them to decide. Because the
11 law says the only requirement is that the defendant
12 has the intent to commit any crime at the time of
13 entry. I think the rest of it is going to be a jury
14 question, so I'm going to deny it. I think it needs
15 to be included in the jury charges of a burg third,
16 and I will do that.

17 MR. SUTHERLAND: So, Your Honor, the directed
18 verdict is granted as to the burg second, but they
19 will be charged with burglary third?

20 THE COURT: It's not a burg second.

21 MR. POGUE: Your Honor, I agree with that.
22 It's a matter of law that you decide with regard to
23 the dwelling. I believe I said yesterday I believe
24 it's a matter of law it wasn't a dwelling based on
25 the testimony --

1 THE COURT: Right. I'm dismissing the burg
2 second then if I have to do that and we're charging
3 with burg third. It does not meet the elements of a
4 burg second at all. From what -- I mean, just the
5 plain statute, reading of the statute, it doesn't.
6 And I think everybody is in agreement with that.

7 MR. POGUE: That's correct, Your Honor. So
8 again, just so I understand the Court's position,
9 the State would ask that the burg second language
10 just so -- and I assume it's not going to be an
11 option of burg second on the verdict form anyway to
12 get to that point. Just for the -- you know, the
13 concern about confusion, you know, and charging them
14 unnecessary law, I think the burg second portions
15 that only relate to the second degree should be
16 taken out and just the portion that pertains to the
17 law as a building and burglary third should be
18 included.

19 Like I said, Your Honor, it's essentially the
20 same offense, it's just swapping out building and
21 dwelling. So I don't know -- again, I'd have to go
22 back and look to see if there's a completely
23 separate charge. I believe, Your Honor, the law
24 should be the same, it's just one is a dwelling and
25 one is a building. So we just need to remove the

1 language in the charge I believe that pertains to a
2 dwelling.

3 THE COURT: Mr. Sutherland?

4 MR. SUTHERLAND: Your Honor, as to this
5 indictment, I mean, he's being found not guilty as a
6 matter of law. As far as the language for the
7 charge, I guess -- just to make sure -- I guess I'm
8 fine with the language being changed to that since
9 we're going to have the instruction on it. But I do
10 intend to speak to the jury about the directed
11 verdict.

12 MR. POGUE: Your Honor, that's not appropriate
13 at all.

14 THE COURT: No. And the thing is, I think all
15 we're doing is reducing it to a burg third or am I
16 missing it? Somebody set me straight, but it looks
17 to me like the burg second should be reduced to a
18 burg third.

19 MR. POGUE: Matters of law are never
20 appropriate for a jury, Your Honor.

21 THE COURT: No, it's not. That's my job. Am I
22 not mistaken in that?

23 MR. POGUE: Your Honor, I'm in complete
24 agreement with you.

25 THE COURT: All right. Let me see the lawyers

1 for just a second. Let me make sure I'm getting
2 this right on our jury charges.

3 (Sidebar conference.)

4 THE COURT: Any other motions?

5 MR. STORY: Yes, Your Honor. I move for a
6 directed verdict of acquittal on both indictments
7 against Ms. Spurlock trafficking as well as
8 burglary, could go for a burglary third as well as a
9 burglary second. But, Your Honor, we're entitled to
10 a directed verdict if the State has not proved -- or
11 the State doesn't present some evidence of every
12 element of the offense charged.

13 Your Honor, they have only shown that there was
14 the element of entering without consent, that the
15 doors had been locked, Your Honor, and that she had
16 been evicted. There was no proof of intent to
17 commit a crime once the defendant had entered the
18 building. So a directed verdict of acquittal on
19 that charge.

20 The second, with the trafficking, they haven't
21 shown any evidence connecting my client to the drugs
22 except for mere presence. That's not enough.

23 So I'd ask for a directed verdict on both of
24 those.

25 THE COURT: I appreciate it, Mr. Story, but I'm

1 going to deny both of those. I've already put on
2 the record and I think they've presented enough
3 evidence to go to the jury as far as the trafficking
4 charge.

5 MR. SUTHERLAND: Your Honor, if I may briefly,
6 as I must, I need to move for a directed verdict on
7 the trafficking and I'll just join his motion.

8 THE COURT: It's noted on the record and I'll
9 deny that motion, also.

10 MR. SUTHERLAND: Thank you, Your Honor.

11 THE COURT: Thank you, Mr. Sutherland.
12 Anything else?

13 MR. POGUE: Nothing from the State, Your Honor.

14 THE COURT: All right. Let me ask the
15 attorneys before I bring the jury back in.

16 Mr. Sutherland, have you talked to your client
17 about testifying in this case?

18 MR. SUTHERLAND: I have, Your Honor. He does
19 wish to testify.

20 THE COURT: How about you, Mr. Story?

21 MR. STORY: Yes, Your Honor, I have.

22 THE COURT: Does she intend to testify?

23 MR. STORY: Your Honor, I believe it is not her
24 intent to testify.

25 MR. SUTHERLAND: If I may, Judge, as a

1 housekeeping matter before Jake gets on the stand.
2 Mr. Story has said that he intends to question Jake
3 about other pending charges that he has with
4 Lexington County where -- I've got a
5 self-defense attempted murder where he shot his
6 stepdad --

7 MR. POGUE: I don't intend to ask him about
8 that --

9 MR. SUTHERLAND: Mr. Story said he did, and
10 that's just not permissible.

11 THE COURT: Why would you ask him about pending
12 charges? I'm not going to allow you to do that.

13 MR. STORY: Under State v. Mizell, State v.
14 Sims, we are allowed to ask about potential
15 penalties of pending charges, Your Honor. It's her
16 6th amendment right of confrontation.

17 And if Your Honor will not allow us to do that,
18 I would simply ask to give an offer of proof outside
19 the presence of the jury of Mr. Fredrickson, if Your
20 Honor will not allow me to ask those questions.

21 THE COURT: Tell me that case name again. Let
22 me read that because I don't --

23 MR. SUTHERLAND: Your Honor, I did read it.
24 He's talking about a co-defendant case where one of
25 the co-defendants is snitching and testifying for

1 the State. Not the citizen testifying in his own
2 defense. It's just apples and pineapples.

3 MR. STORY: Your Honor, I think the 6th
4 Amendment right to confrontation still applies
5 because what I believe he's going to say is they
6 were Kelsay Spurlock's drugs and he's going to say
7 he was running because of the driving under
8 suspension.

9 MR. SUTHERLAND: He's half right.

10 MR. STORY: However, Your Honor -- he's,
11 basically, going to put it on my client and she has
12 no burden in this case.

13 MR. SUTHERLAND: Why didn't you tell me about
14 them drugs. I haven't even shown him a picture of
15 it. I told the jury that in the beginning. He
16 doesn't know anything about it. And also, again, it
17 is wildly, wildly -- I guess I'll tick down the
18 list. It's not relevant. If it is relevant, it's
19 prejudicial, it's 404(b), doesn't meet any of the
20 exception of 404(b), doesn't fall under 609 because
21 it's not a conviction and just terribly prejudicial
22 and wrong, Your Honor.

23 MR. STORY: Your Honor, I have a right to
24 cross-examine about that. Again, I would ask that I
25 make an offer of proof outside the presence of the

1 jury to question Mr. Fredrickson.

2 MR. SUTHERLAND: Oh, no.

3 THE COURT: About his pending charges?

4 MR. STORY: About the trafficking and --

5 MR. SUTHERLAND: He's testifying, he can
6 cross-examine him, but I've never heard anything
7 like it so it's taken me a little while to just sort
8 of formulate an answer to it, to ask him about
9 shooting his stepdad in a self-defense case that has
10 nothing to do with this case.

11 THE COURT: Mr. Pogue, do you have a dog in
12 this fight?

13 MR. POGUE: Your Honor, because I do not want
14 my case mistried or I don't want my case overturned
15 on appeal should there be a conviction in this case,
16 I adamantly am opposed to him being questioned in
17 any form or fashion, unless he were to open the door
18 to it, about any pending charges he has in this
19 jurisdiction or any other jurisdiction that doesn't
20 fall under some rule of evidence that would make
21 them admissible.

22 THE COURT: I don't know of any rules of
23 evidence that it would fall under and any other case
24 law, I did the 403(b) analysis and I can't find
25 anything that would be more prejudicial.

1 I'm going to deny it, Mr. Story.

2 MR. STORY: Your Honor, if I may, you're
3 denying my offer of proof as well?

4 THE COURT: I am.

5 MR. STORY: Your Honor, our theory is that Mr.
6 Fredrickson was not running because of driving under
7 suspension, he was running because he had drugs and
8 to not allow us to cross-examine him about that
9 would negate our theory, essentially.

10 THE COURT: You can always put your client on
11 the stand.

12 MR. STORY: The other issue, Your Honor, if my
13 client's conviction for the paraphernalia, I'm going
14 to move to keep that out. Because that's 404(b)
15 evidence.

16 MR. SUTHERLAND: Well, my view of that, Your
17 Honor, is when the jury is trying to determine who
18 owns the drugs, it is certainly relevant that she
19 pled guilty to the scale that weighed the drugs. It
20 is certainly relevant to that. And it would
21 overpower any sort of prejudice towards her. And
22 it's a conviction on the record, it's not hearsay.
23 She pled guilty to it. I mean, she was there the
24 same day. Jake and her both went to court.

25 THE COURT: Mr. Pogue?

1 MR. POGUE: Your Honor, if you're asking my
2 opinion on that, I was of the opinion that I could
3 have -- you know, but for my -- you know, statement
4 to you or promise to you that I wasn't going to make
5 any offering of statements in my case in chief that
6 I could have offered that in my case in chief, you
7 know, as just a statement that she made, not as a
8 conviction of any sort.

9 THE COURT: You agreed not to put in any
10 statements.

11 MR. POGUE: It's a statement that she'd adopted
12 belief in under 801. I don't disagree with Mr.
13 Sutherland. He has that same right that he could
14 call a witness that has the requisite knowledge as
15 to that statement, then offer it. Because I think
16 in this case that they would be party opponents.

17 MR. SUTHERLAND: It seems like we have
18 antagonistic defenses here. Now, Jake's not going
19 to get up there and say he knows anything. My view
20 and my belief is that he doesn't. He's not going to
21 throw her under the bus.

22 However, I, as his attorney, where he's on
23 trial looking at seven to 25 years, I think it is
24 appropriate for me to point out that here you found
25 these drugs, they were found with the scale,

1 somebody pled to the scales and we're on trial to
2 the drugs, it is certainly relevant to Jake not
3 possessing the drugs. So any sort of prejudice it
4 might claim against the co-defendant, that's what
5 happens in co-defendant cases. Sometimes there's
6 adversarial instances in it and there's damaging --
7 you know, it will rain on one defendant and sort of
8 splash over on the other.

9 THE COURT: I agree. I'll allow it.

10 MR. SUTHERLAND: Thank you, Your Honor.

11 THE COURT: Anything else, Mr. Story?

12 MR. STORY: Your Honor, briefly, to not allow
13 me to question him about the trafficking would be a
14 violation of due process 5th and 14th Amendment --

15 THE COURT: To question who about the
16 trafficking?

17 MR. SUTHERLAND: This is about the attempted
18 murder.

19 THE COURT: Let him -- because he said
20 trafficking, he didn't say attempted murder.

21 MR. STORY: Your Honor, again, I believe that
22 my question -- I believe he's going to say he was
23 running because of the driving under suspension. If
24 I were to be able to question him about the
25 trafficking and the potential penalties he faces,

1 the jury would hear that the trafficking is a much
2 more serious charge than driving under suspension.

3 THE COURT: I don't know what he's going to
4 say.

5 MR. STORY: I know, Your Honor, that's why I
6 want to make an offer of proof for the record. And
7 I also want to --

8 MR. SUTHERLAND: I will submit that he's going
9 to testify that he didn't want to go to jail for DUS
10 and that's why he took off.

11 MR. STORY: So, Your Honor, I simply want to
12 ask him about his past driving under suspensions and
13 his knowledge of those as well as the pending
14 trafficking charges, Your Honor.

15 MR. POGUE: Your Honor, the law is clear that
16 punishment and sentencing is not appropriate for the
17 jury.

18 THE COURT: I agree.

19 I'm not going to allow that, Mr. Story.

20 Any other motions?

21 MR. STORY: Yes, Your Honor. I would object to
22 any testimony about any conviction in magistrate
23 court for a paraphernalia charge, Your Honor. It's
24 a violation of my client's 5th amendment right to,
25 you know, put the burden on her to testify. And

1 it's also a -- it's a violation of her right to
2 confrontation and cross-examination, 6th amendment
3 Article 1, Section 410 of the South Carolina
4 constitution. So Your Honor, those are both my two
5 motions.

6 MR. SUTHERLAND: And I just thought we had a
7 ruling on that already, Your Honor.

8 THE COURT: I did.

9 All right. Anything else?

10 MR. POGUE: Nothing from the State.

11 THE COURT: All right. Let me get the clerk
12 to -- I want to put both defendants under oath.

13 JAKE FREDRICKSON

14 being first duly sworn, testified as follows:

15 THE DEFENDANT: So help me God.

16 THE COURT: And Ms. Spurlock, too.

17 KELSAY SPURLOCK

18 being first duly sworn, testified as follows:

19 THE DEFENDANT: Yes.

20 THE COURT: All right. Let me get both the
21 defendants to stand. I'm going to talk to you
22 together, but it applies to you individually what
23 I'm saying. So I want to make sure that you
24 understand that.

25 At this time, I'm going to explain to you

1 certain of your rights. If you do not understand
2 anything I say, please let me know. If you want me
3 to explain anything else in any more detail, please
4 let me know.

5 Do you understand, Mr. Fredrickson? .

6 THE DEFENDANT: Yes, ma'am.

7 THE COURT: Ms. Spurlock?

8 THE DEFENDANT: (Nods head.)

9 THE COURT: We've reached the stage of the
10 trial where you may present your defense. You have
11 the right to claim the protections given to you by
12 the 5th amendment to the Constitution of the United
13 States.

14 This amendment states in part: No person shall
15 be compelled in any criminal case to be a witness
16 against himself or herself. This means that you
17 cannot be required to testify in this case. You
18 have the right to testify on your own behalf.
19 However, no one can make you testify. This is a
20 personal right and no one can waive this right
21 except you.

22 If you decide to testify, you will be subject
23 to the same rules that govern other witnesses and
24 you may examined and cross-examined on any relevant
25 issue in the case.

1 In addition, if you have any convictions
2 involving dishonesty or false statement or crimes
3 punishable by imprisonment for more than one year
4 and this Court determines that the probative value
5 of admitting this evidence outweighs its prejudicial
6 effect to you, the solicitor will be able to
7 introduce your record to attack your credibility.
8 If you decide to testify, this decision on your part
9 must be freely, voluntarily and intelligently made
10 with knowledge of the protections given to you by
11 the 5th amendment and the consequences of your
12 decision to testify.

13 If you decide not to testify, I will instruct
14 the jurors that they cannot give the fact that you
15 did not testify any consideration whatsoever and
16 that there is to be absolutely no prejudice to you
17 because you did not testify. It is left entirely up
18 to you whether or not you testify. You may talk
19 with your attorney, your family, friends or anyone
20 else, but the final decision will be left entirely
21 up to you.

22 Do you understand what I've explained to you,
23 Mr. Fredrickson?

24 THE DEFENDANT: Yes, ma'am.

25 THE COURT: Ms. Spurlock?

1 THE DEFENDANT: Yes.

2 THE COURT: Do you have any questions that I
3 need to explain to you, Mr. Fredrickson, about what
4 I've just said?

5 THE DEFENDANT: No, ma'am.

6 THE COURT: Ms. Spurlock?

7 THE DEFENDANT: No.

8 THE COURT: Do either one of you wish to speak
9 to your lawyer in private?

10 Mr. Fredrickson?

11 THE DEFENDANT: I'm good.

12 THE COURT: Ms. Spurlock, you want to take some
13 time and talk to your lawyers?

14 THE DEFENDANT: (Nods head.)

15 THE COURT: I'll give you that time.

16 MR. POGUE: Your Honor, just for the record, I
17 don't have a record for impeachment for either one
18 of them in regards to 609 unless they open the door
19 to it.

20 THE COURT: Okay. Let's take a ten-minute
21 break and then we'll come back.

22 (Short recess.)

23 THE COURT: Just for the record, Mr. Sutherland
24 and Mr. Story, I went back and did a little research
25 and thought about it and I don't think I'm going to

1 let this drug paraphernalia come in. I'm just not.
2 I just think it kind of muddies the water. We're on
3 trial for trafficking. I think it might give the
4 appearance of creating a Bruton issue that she feels
5 like she may have to take the stand and testify to
6 defend herself. Her story could be she pled to what
7 she was guilty of. And on top of that, I really
8 don't know what relevance it brings to a trafficking
9 charge.

10 So I'm going to reverse myself and I'm not
11 letting in the DUS and I'm not letting in the -- I'm
12 not going to let you cross him on the DUS.

13 MR. SUTHERLAND: Oh, you mean the previous DUS
14 -- the one on this, he was going to say he --

15 THE COURT: I know what he's going to say, he's
16 going to say he ran because he was DUS, but you know
17 -- and that's fine, I think he can say that. We're
18 just not going to get into it. And I'm not going to
19 get into the paraphernalia either. Just make it
20 clean.

21 MR. POGUE: Just so I'm clear, Your Honor,
22 neither myself nor Mr. Story will be able to ask him
23 about -- if he takes the stand and says he ran
24 because he was under suspension, we can't ask why he
25 didn't run for the suspension that he was pulled

1 for, I guess, a month prior? I just want to make
2 sure I understand.

3 MR. SUTHERLAND: If he does that, I would have
4 judicial notice about a September 15th, 2017
5 memorandum from Chief Justice Beatty saying
6 defendants who do not show up for court and are
7 unrepresented by counsel cannot receive jail time,
8 they must receive a fine. And I've got the
9 memorandum. Because I think they're trying to make
10 that into a fact at issue at the trial going look,
11 you didn't run the last time. Well, Chief Justice
12 Beatty has said you cannot give people time if they
13 don't show up for court or if they do show up and
14 they're unrepresented.

15 So if that questions --

16 THE COURT: Well, I don't think that's what
17 he's asking. I think he's saying well, have you
18 ever run when you had a DUS before.

19 Is what you're asking me, right?

20 MR. POGUE: Correct.

21 THE COURT: I think you're stuck with his
22 answer.

23 MR. POGUE: But you're saying that I can ask
24 him that, but I'm stuck with the answer.

25 THE COURT: I think if that's going to be his

1 story --

2 MR. POGUE: I got you. I'm with you, Your
3 Honor.

4 THE COURT: We're not going to get into
5 convictions, other DUS. We're not bringing in any
6 certified copies. We're not doing any of that
7 stuff. But if he gets up and testifies he ran
8 because he got a DUS, then I think it's fair game
9 to --

10 MR. POGUE: I'm going to agree with you, Your
11 Honor. I don't believe I was ever entitled to use
12 extrinsic evidence to impeach him on that issue.

13 THE COURT: And then I think you're stuck with
14 his answer.

15 MR. STORY: Your Honor, very briefly, I renew
16 my motion. I'd like to ask about potential
17 penalties, bias is always an issue. So I ask to be
18 able to cross-examine him.

19 THE COURT: On what?

20 MR. STORY: On the potential penalties of
21 driving under suspension versus trafficking.

22 THE COURT: No, I'm not going to do that.
23 That's denied. We're not going there.

24 All right. Anything else? My law clerk is
25 working on these jury charges because I'm hoping I

1 can -- I've ordered the jury lunch. I'd like to get
2 this to them.

3 Everybody ready?

4 MR. SUTHERLAND: Your Honor, if the clerk is
5 working on the jury charges, with respect to the
6 State's request about notice being a locked door,
7 that's not going to be in the charges is it.

8 THE COURT: No.

9 MR. SUTHERLAND: Okay. Great. Great. Thanks.

10 THE COURT: No. We're putting in the language
11 of a burg third is what we're doing.

12 MR. SUTHERLAND: Yes, ma'am.

13 THE COURT: Any other questions?

14 All right. Let's bring the jury in.

15 MR. POGUE: I do have one question, Your Honor,
16 Ms. Spurlock is not testifying?

17 THE COURT: Oh, I'm sorry, I didn't ask.

18 Ms. Spurlock, you've had time to talk with your
19 lawyer. Do you need any more time to speak with
20 your lawyers? You've got two great ones over there.

21 THE DEFENDANT: No, ma'am.

22 THE COURT: Do you wish to testify?

23 THE DEFENDANT: No, ma'am.

24 THE COURT: Thank you for bringing that to my
25 attention.

1 (The jury enters the courtroom at 11:04 AM.)

2 THE COURT: Mr. Foreman, is the jury ready?

3 THE FOREMAN: Yes, ma'am.

4 THE COURT: Thank you.

5 Mr. Sutherland, you can call your first
6 witness.

7 MR. SUTHERLAND: May it please the Court, Your
8 Honor.

9 THE COURT: Yes, sir.

10 MR. SUTHERLAND: The defense would call Jake
11 Fredrickson.

12 JAKE FREDRICKSON

13 being first duly sworn, testified as follows:

14 THE DEFENDANT: I do.

15 THE CLERK: Once you have a seat up there, you
16 can take your mask off. State your name and spell
17 your last name for the record.

18 THE DEFENDANT: Jake Fredrickson,
19 F-R-E-D-R-I-C-K-S-O-N.

20 DIRECT EXAMINATION

21 BY MR. SUTHERLAND:

22 Q. All right, Jake, are you ready?

23 A. Yeah.

24 Q. Tell everybody what happened that day?

25 A. I met Kelsay a couple days prior at a mutual

1 friend's house and she had called me to come pick
2 her up and I went and picked her up. And when I
3 picked her up, all we did was ride around aimlessly
4 to find somewhere either to go and hang out --
5 Q. Let me stop you and ask you, how was she
6 behaving when you picked her up?
7 A. She was a little a strange, but a lot of people
8 are.
9 Q. I got you. I got you. Okay. Keep going.
10 A. She had pointed down a dirt road saying she
11 lived down there. So I turned on the road, she
12 asked to check her mail and then I asked her if
13 she'd like to drop some of her things off.
14 Q. So she had things with her when --
15 A. When I picked her up, she had like --
16 Q. Do you remember what she had?
17 A. Couple backpacks and bags.
18 Q. Backpacks and bags?
19 A. Yeah, backpacks and like a purse or something.
20 Q. So you went with her, you checked her mail?
21 A. She checked her mail.
22 Q. She checked her mail.
23 A. Yeah, I pulled up to the mailbox, she reached
24 in and grabbed the mail. I don't really remember
25 where she put the mail after that. I pulled in the

1 driveway. She asked for some help. She said we got
2 to go around back. And she told me --

3 Q. Let me stop you. It's okay to take a breath.
4 She asked for help doing what?

5 A. I guess grabbing some things.

6 Q. So she wanted to grab some things out of her
7 house as you knew it?

8 A. Yes, sir.

9 Q. And you saw her get her mail?

10 A. Yes, sir.

11 Q. Keep going.

12 A. She said we had to go around back, so we went
13 around back. She told me forgot her key. So being
14 that it's a trailer and there's no bolt, I put my
15 arm in the door and just pushed it open.

16 Q. Okay. She was okay with that or she was asking
17 you to do it, I guess?

18 A. Yes.

19 Q. Okay.

20 A. When I got inside the house, I noticed that it
21 looked almost abandoned. It was cluttered. There
22 was food rotting on the counter.

23 Q. Food on the counter?

24 A. Yeah.

25 Q. Okay.

- 1 A. Looked trash. So I stood there just waiting on
2 her to come back from whenever she went inside the
3 trailer.
- 4 Q. Did you see her doing or grabbing anything?
- 5 A. I saw her grab a photo album.
- 6 Q. A photo album?
- 7 A. Yeah.
- 8 Q. And then she just went in another room or
9 something?
- 10 A. She went in another room in the back. I stood
11 at the window.
- 12 Q. Then what happened?
- 13 A. I guess the landlord or the landlord's
14 father --
- 15 Q. The folks who were testifying earlier?
- 16 A. Testified, yes, sir.
- 17 Q. Was it the older gentleman?
- 18 A. It was the older guy. He walked up and asked
19 what I was doing there. I was like, I don't know.
20 Called Kelsay up and he said, What are you doing
21 here? You're not allowed to be here. You've been
22 evicted. So I told Kelsay, Hey, we got to go. So I
23 walked out the house and got back in my truck and
24 waited for Kelsay to come back.
- 25 Q. So she still stayed in there?

1 A. Yes, she still stayed in there a little bit
2 after I left.

3 Q. Was the older gentleman standing there --

4 A. He had already walked off.

5 Q. Okay. So he walked up and was like, hey, Jake,
6 what are you doing here? And you said, I don't
7 know. And then he goes to her says, You've been
8 evicted. Then you say, Let's go. So you go out and
9 you're still waiting in the truck and she's still
10 inside?

11 A. Yes.

12 Q. Then what happened?

13 A. She gets in the truck and I leave, we drive
14 off. Get to the corner of Ben Spires and 321 and I
15 saw blue lights. Well, naturally, I didn't have my
16 license, so --

17 Q. You didn't have your license. It was
18 suspended, right?

19 A. It was suspended.

20 Q. Okay.

21 A. So I was like --

22 Q. Unnerved?

23 A. A little nerved, but then I thought he was
24 pulling over another vehicle, so I calmed down. But
25 he went around him and got behind me and I just got

- 1 scared said I don't want to go to jail.
- 2 Q. And you took off?
- 3 A. Just took off.
- 4 Q. Now, let me jump ahead a little bit. No, I'm
- 5 not going to do that. We'll talk about when you
- 6 went to court later, so keep going. So we all saw
- 7 the driving?
- 8 A. Yeah, there's no reason denying that, I did
- 9 run.
- 10 Q. And you wanted to plead guilty to that; is that
- 11 right?
- 12 A. Yes.
- 13 Q. And you weren't allowed to do that; is that
- 14 right?
- 15 A. Yes, sir.
- 16 Q. Keep going. Everybody seen the chase. Get on
- 17 the end part when they finally get you in that --
- 18 A. Eventually, they run me into someone's
- 19 driveway. I thought it was a dirt road at the time.
- 20 And I -- Major Watkins draws his gun and I stride
- 21 through the woods. I didn't want to hit him and I
- 22 didn't want to get shot.
- 23 Q. Okay.
- 24 A. So when the car crashes --
- 25 Q. Let me stop you. You learned -- you met him

1 and he was Major Watkins at the time, he's chief
2 now?

3 A. Yes.

4 Q. Okay. Keep going.

5 A. I crashed the car, opened the door and just
6 ran.

7 Q. Okay.

8 A. You know, I really did not want to go to jail.

9 Q. And you jumped in a drainage ditch?

10 A. Yes, I hid in a drainage ditch.

11 Q. Then what happened?

12 A. They found me, drew guns on me, put me in
13 handcuffs. Unhooked me for a second to remove a
14 watch.

15 Q. So they thought the watch might be making you
16 uncomfortable or something?

17 A. I have no clue why they took the watch off.

18 Q. Okay. They unhooked you and took the watch off
19 for some legitimate reason?

20 A. Yeah.

21 Q. And then they hooked you back up?

22 A. They hooked me back up and threw me in the car
23 with Kelsay Spurlock.

24 Q. Did you have a chance to speak to the chief,
25 who was Major Watkins, and did he ask you anything?

1 A. He asked me why I ran and I told him because my
2 license was suspended. And then he asked me, It
3 wasn't the big bag of the drugs in the front seat?
4 And I was like, What drugs? I didn't know anything
5 about drugs until he said something.

6 Q. And to this day, the projection up there,
7 that's the first time you've seen this stuff?

8 A. Yes, sir.

9 Q. Okay. And so he threw you in the car with
10 Kelsay Spurlock?

11 A. Kelsay.

12 Q. And I guess you just went to jail?

13 A. Yes, sir.

14 Q. I want to ask you, it was the -- was it the
15 19th of November or the 12th of November, one of
16 those days that they took you from the jail to go to
17 court on that charge?

18 A. Yes, sir.

19 Q. And so you had been in 47 days at that time?

20 A. Yes, sir.

21 Q. And when you went in front of the Judge -- just
22 tell me what happened in court.

23 A. I pled guilty and they gave me time served.

24 Q. So did they suspend 60 days to 47 days, is that
25 how they set it?

1 A. Something like that, yes.

2 Q. So you got a two-month sentence, but you,
3 basically, only did about a month and a half, a
4 little less than a month and a half?

5 A. Yes, sir. I was incarcerated from October 3rd
6 till that day.

7 Q. I gotcha. And my recollection is 47 days, 46,
8 48, you know, there's just a point to it that you
9 went and pled guilty to it.

10 And you just testified that you didn't -- when
11 you spoke with the chief, you're just like what
12 drugs, you didn't know anything about them?

13 A. Yes, sir.

14 Q. All right. Well, Jake, I think that's it from
15 me for now.

16 MR. SUTHERLAND: No further questions for Jake
17 at this time, Your Honor.

18 THE COURT: Mr. Story?

19 MR. STORY: I first or the State, Your Honor?

20 MR. POGUE: We can approach, Your Honor.

21 THE COURT: Yeah.

22 (Sidebar conference.)

23 THE COURT: All right. Mr. Story, are you
24 ready?

25 MR. STORY: Yes, Your Honor. May it please the

1 Court?

2 THE COURT: Yes, sir.

3 CROSS-EXAMINATION

4 BY MR. STORY:

5 Q. Good afternoon, Jake.

6 A. Good afternoon.

7 Q. So you ran because you didn't have a license,
8 right?

9 A. Yes, sir.

10 Q. And your license was suspended?

11 A. Yes, sir.

12 Q. And you later admitted to that?

13 A. Yes, sir.

14 Q. Your license was suspended?

15 A. Yes, sir.

16 Q. And you received time served for that?

17 A. Yes, sir.

18 Q. Now, you didn't just run, did you? You -- when
19 the blue lights flashed, you hit the gas and sped
20 up, right?

21 A. Yes, sir.

22 Q. Okay. You took law enforcement on a pretty
23 lengthy chase?

24 A. Yes, sir.

25 Q. You drove at a high rate of speed, in excess of

1 75 miles per hour. You went over some dirt roads,
2 correct?

3 A. Yes, sir.

4 Q. For a pretty significant length of time? At
5 one point, you drove through a field?

6 THE COURT: Let him answer for the record.

7 You got to answer.

8 THE DEFENDANT: Yes.

9 Q. Then you crashed through two fences; is that
10 your recollection?

11 A. Yes, sir.

12 Q. You turn into someone's private driveway,
13 correct?

14 A. Yes, sir.

15 Q. And you finally drove off road into the woods?

16 A. Yes.

17 Q. And you only came to a stop when you crashed
18 into some trees?

19 A. Yes, sir.

20 Q. Okay. And it had to have been a pretty abrupt
21 stop, right?

22 A. I really wasn't going that fast through the
23 trees because I was hitting more just like small
24 trees and eventually slowed down.

25 Q. And when you crashed into the trees, you ran

1 outside -- I mean, you took off through the woods?

2 A. Yes, sir.

3 Q. And you went and hid in a drainage ditch?

4 A. Yes, sir.

5 Q. And that was because you were worried your
6 license was suspended?

7 A. I knew my license was suspended.

8 Q. The driving under suspension that you received
9 less than 60 days for?

10 A. Yes, sir.

11 Q. Okay.

12 MR. STORY: Thank you, Your Honor. I have no
13 further questions at this time.

14 THE COURT: Thank you, Mr. Story.

15 Mr. Pogue.

16 MR. POGUE: Thank you, Your Honor. May it
17 please the Court?

18 THE COURT: Yes, sir.

19 CROSS-EXAMINATION

20 BY MR. POGUE:

21 Q. As an initial matter, Mr. Fredrickson, your
22 attorney asserted through his line of questioning
23 that you were not allowed to plead guilty. When was
24 it that you tried to plead guilty to this charge?

25 A. At the very beginning of this trial.

1 Q. On Monday?

2 A. On Monday.

3 Q. That's when you notified the Court that you
4 wanted to plead guilty to just that charge?

5 A. Yes, sir.

6 Q. Okay. And the reason you wanted to plead
7 guilty to that charge was not decided until Monday
8 because why?

9 A. I mean, I can't really not say I didn't do it
10 because I did do it. I did run.

11 Q. Is that because it was all captured on video?

12 A. No. I admitted to Major Watkins at the time
13 that I did run, that I was driving the vehicle.

14 Q. Well, again, admitting to an officer, you would
15 agree with me, that you did something and pleading
16 guilty to that are two completely different things,
17 correct? One doesn't involve potential punishment
18 and the other does involve potential punishment,
19 correct?

20 A. Yes, sir, I think.

21 MR. SUTHERLAND: Your Honor, if Jake doesn't
22 understand the question, he can ask to clarify.

23 THE WITNESS: Yeah, I don't really understand.
24 I know my Miranda rights say I have to right to
25 remain silent, anything I say and do will be held

1 against me in a court of law, correct?

2 BY MR. POGUE:

3 Q. That's correct. And you realize that you
4 waived your Miranda rights when you took the stand.
5 You waived your right to remain silent and now
6 you're testifying?

7 A. Now, I am testifying. But I did admit to
8 driving the vehicle to Chief Watkins.

9 Q. Again, you making that statement does not
10 involve punishment, correct, in the court of law
11 until you plead guilty?

12 A. And I tried to plead guilty to it.

13 Q. On Monday, correct?

14 A. Yes, sir.

15 Q. Was there any notification that you gave to
16 your attorney prior to Monday that you wanted to
17 plead guilty to that charge?

18 MR. SUTHERLAND: If I may, we were only
19 notified of the trial week before last, Judge, so I
20 don't know where he's going with that.

21 MR. POGUE: Your Honor, the State wasn't the
22 one that opened the door to that.

23 THE COURT: I agree. I'm going to let you go
24 on.

25 BY MR. POGUE:

1 Q. Did you wish to plead guilty prior to Monday to
2 that charge?

3 A. I would have to because I did it. I admitted
4 to doing it.

5 Q. Is the reason why you wanted to plead guilty to
6 that charge potentially so you could keep out
7 evidence in regard to the videos, so that the jury
8 wouldn't be able to see those portions of the events
9 that took place that day?

10 A. No.

11 Q. That wouldn't have been why you wanted to plead
12 guilty?

13 A. No. I wanted to plead guilty because I did it.

14 Q. Okay. We'll move on. If you wouldn't mind,
15 just explain to me, I was a little unclear, how was
16 it that you initially met Ms. Spurlock or first
17 became aware of her existence?

18 A. I met her through a mutual friend at his house
19 about two or three days prior.

20 Q. Okay. And did y'all friend each other on
21 Facebook or anything like that?

22 A. Yes.

23 Q. Did y'all exchange phone numbers?

24 A. No, just communicated through Facebook.

25 Q. So how did she contact you?

- 1 A. Through Facebook messenger.
- 2 Q. All right, through Facebook messenger. And
- 3 when was it that you said she contacted you?
- 4 A. October 3rd.
- 5 Q. October 3rd. So it was that morning, that
- 6 afternoon?
- 7 A. That afternoon.
- 8 Q. Afternoon. And where did you go to pick her
- 9 up?
- 10 A. In Cayce.
- 11 Q. In Cayce?
- 12 A. Yes, sir.
- 13 Q. Okay.
- 14 A. On State Street.
- 15 Q. So in Cayce on State Street?
- 16 A. Yes, sir.
- 17 Q. What did y'all do next?
- 18 A. We just drove around looking for a place to
- 19 hang out.
- 20 Q. Just drove around looking for a place to hang
- 21 out?
- 22 A. Yes, sir.
- 23 Q. Okay. So what did you do after that?
- 24 A. I happened to go by her road and she asked me
- 25 if she could check her mail.

1 Q. First you started in Cayce, correct?

2 A. Yes, sir.

3 Q. And you just happened to end up in Gaston?

4 A. It's not that far.

5 Q. Do you know about how far that is?

6 A. Ten, 15 minutes maybe.

7 Q. So you just happened to be going by where she
8 lived and she asked if you would stop at her house?

9 A. Yes, sir.

10 Q. That's your testimony?

11 A. Yes, sir.

12 Q. Okay. What did you do after that?

13 A. Stopped by the house and she checked her mail.
14 She asked if she could pick up some more things.

15 Q. Why would she ask you if she could pick up some
16 more things?

17 A. Because I had a truck.

18 Q. What sort of things was she wanting to pick up?

19 A. I guess her belongings.

20 Q. Was she specific as to what --

21 A. Not really.

22 Q. All right. So what did you do after that --

23 I'll tell you what, let's rewind a second. When you
24 pulled up at her house, where did you park?

25 A. In the front.

1 Q. In the front. The property is a trailer,
2 correct?

3 A. Yes, sir.

4 Q. There's no trees or anything in front of the
5 trailer, correct?

6 A. No, sir.

7 Q. No bushes or shrubbery that would obstruct your
8 view of the front door, correct?

9 A. No, sir.

10 Q. There's literally nothing there, correct?

11 A. In between --

12 Q. In between where you parked in front and your
13 view of the door?

14 A. Yes, sir.

15 Q. So your testimony is -- well, let me ask you,
16 did you not see that notice that was on her front
17 door?

18 A. Wasn't paying too much attention to it.

19 Q. You didn't think it was unusual that she had
20 something taped to her front door?

21 A. Well, it is white on a white door.

22 Q. So from where you parked in the front --

23 A. I could not see the door.

24 Q. You couldn't see the door?

25 A. Clearly. I couldn't tell there was a piece of

1 paper on the door.

2 Q. Was there something obstructing your view of
3 the door?

4 A. No, but I also wasn't paying that much
5 attention to the door.

6 Q. What were you paying attention to?

7 A. Ms. Spurlock.

8 Q. So what did Ms. Spurlock do when you pulled up
9 front and you say that you didn't see the front door
10 --

11 A. She walked to the back door.

12 Q. So you got out of the truck in front of the
13 front door and then walked around to the back?

14 MR. SUTHERLAND: If I may, that's a
15 misstatement of his testimony. He said he parked
16 out front --

17 MR. POGUE: It's a question, Your Honor. I'm
18 just asking.

19 THE COURT: I'm going to let him ask it.

20 THE WITNESS: I didn't quite look at the front
21 door and I also really wasn't on top of the trailer.
22 I parked in the front yard facing towards the road.
23 We got out the truck and we walked behind my truck
24 to go to the backyard. I was not paying attention
25 to the front door.

- 1 Q. So when you got to the back of the home, is
2 there a fence or a gate or anything in the back?
- 3 A. There was a gate.
- 4 Q. So it's a fenced-in back yard?
- 5 A. Yes, sir.
- 6 Q. And is there a porch on the back?
- 7 A. I do believe so.
- 8 Q. Are there steps that lead up?
- 9 A. One or two, not many.
- 10 Q. So your testimony is that you went with her
11 around to the back after you parked in the front,
12 went through the gate; is that correct? Am I
13 understanding you correctly?
- 14 A. Yes, sir.
- 15 Q. Walked up the steps onto the back porch. Then
16 what happened?
- 17 A. She said she forgot her key and asked if I
18 could help her open the door.
- 19 Q. Did you believe her when she said that she lost
20 her key?
- 21 A. I mean, she did show me her mail.
- 22 Q. So she said she lost her key, and then what
23 happened?
- 24 A. I bumped into the door to try to get it open.
- 25 Q. State's Exhibit 14. You bumped into the door?

- 1 A. Put my shoulder into the door.
- 2 Q. Did she ask you to do that?
- 3 A. Yes, sir.
- 4 Q. Did you not think it was unusual that somebody
- 5 would ask you to break the door to their own house?
- 6 A. I didn't mean to break the door like that.
- 7 Q. What were you attempting to do?
- 8 A. Well, if you grab the door knob and just a
- 9 little tap, usually on trailers, they just open up.
- 10 And I used a little bit too much force and I tripped
- 11 and fell on the frame of the door and my whole body
- 12 landed on the door.
- 13 Q. You said usually, do you have experience
- 14 working doors of trailers open?
- 15 A. I lived in one my whole life.
- 16 Q. You said usually, so I'm asking?
- 17 A. There's no dead bolts. The door knob just pops
- 18 open.
- 19 Q. Well, did that happen in this case?
- 20 A. Yes.
- 21 Q. Well, why is the door broken?
- 22 A. I fell on it.
- 23 Q. So the whole door came off the hinge?
- 24 A. I'm a big boy.
- 25 Q. When you broke the door to her front -- or what

1 she alleged according to you was her back door, did
2 she seem concerned at all that the door was broken?

3 A. Not really.

4 Q. Would that not seem unusual to you, that --

5 A. At the time, yes, it was a little unusual.

6 Q. At any point --

7 A. Still is unusual. But when I walked in and
8 seen how trashed the house was and the food rotting
9 on the counter, the whole situation became unusual.

10 Q. Okay. But even though all of these scenarios
11 that are playing out you admit are unusual, you
12 still decide to stay?

13 A. When the landlord showed up or the landlord's
14 father showed up --

15 Q. That's was a question, you didn't answer. Up
16 to that point, you admit those are some unusual
17 things that occurred, but yet, you chose to still
18 stay?

19 A. I didn't want to leave her there.

20 Q. Okay. Yes or no?

21 A. Yes.

22 Q. Now, if you want to explain your answer, you
23 can?

24 A. I just didn't want to leave her there. It
25 would suck to be picked up and dropped off somewhere

1 and left in the middle of nowhere.

2 Q. So when you're inside the home, what did you do
3 after that? What happened next?

4 A. I stood there and watched her grab a couple
5 things.

6 Q. What things did she grab?

7 A. From what I noticed, a photo album for one.

8 Q. A photo album, okay. What else did she grab?
9 Do you remember anything else?

10 A. I don't recall, maybe a bag or two.

11 Q. What kind of bag?

12 A. A backpack, maybe, I don't know. She had a lot
13 of bags.

14 Q. She had a lot of bags she was carrying around
15 with her or she had a lot of bags in the house?

16 A. She had a lot of bags she was carrying around
17 with her.

18 Q. Like, when you went to pick her up, she had a
19 lot of bags --

20 A. She had bags with her when I picked her up.
21 And when we went to the house, she grabbed some more
22 things.

23 Q. Okay.

24 A. So --

25 Q. Showing you State's Exhibit 8. Whose truck is

1 that?

2 A. That was the vehicle I was driving.

3 Q. Whose? Do you know who owned that truck?

4 A. Not necessarily. I was driving it for a while.

5 Q. Okay.

6 A. I traded my motorcycle for the truck.

7 Q. Okay. So it was your -- when you say you
8 traded your motorcycle, did you give the title to
9 your motorcycle to the person that you traded it
10 for?

11 A. No, because he didn't have the title to the
12 truck.

13 Q. That didn't strike you as unusual?

14 A. It did, that's why I kept my title.

15 Q. So you didn't give him the title to your
16 motorcycle?

17 A. No, sir.

18 Q. So at this point, you're driving this truck, I
19 assume, correct?

20 A. Yes.

21 Q. This is the inside of that truck?

22 A. Yes, sir.

23 Q. Do you see any of the bags that you were
24 describing that belonged to her in that truck?

25 A. Yes, sir.

1 Q. Which bags?

2 A. The black and yellow one and the brown bag.

3 Q. The black and yellow and the brown bag. This
4 bag?

5 A. Yes, sir.

6 Q. State's Exhibit 10?

7 A. Yes, sir.

8 Q. When you were driving, that's where that bag
9 was, right there in the floor board of State's
10 Exhibit 8?

11 A. I believe so.

12 Q. Okay. And you just didn't happen to notice the
13 big bag of what appears to be a rock-like substance
14 in the bag?

15 A. I was paying attention to driving.

16 Q. I understand that you were probably paying
17 attention to driving at high speeds like that, but
18 at some point prior, you know, when you were driving
19 around earlier in the day I'm talking about, not
20 when you were running from the police, did you
21 happen to just look down in this bag?

22 A. No, sir.

23 Q. The whole time that y'all spent riding around
24 earlier in the day, your eyes never went down into
25 the bag?

1 A. It was --

2 Q. That's your testimony?

3 A. Yes, sir.

4 Q. Okay. And this mail right here that's in that
5 bag or is that mail that's in that bag? Do you
6 know?

7 A. In the picture, it just looks like papers.
8 Could be mail.

9 Q. You said she got her mail?

10 A. She did get her mail.

11 Q. Do you know what she did with her mail when she
12 got her mail?

13 A. Again, wasn't really paying that much attention
14 to that.

15 Q. So just so I understand your testimony, to
16 recap, you weren't paying attention to the notice on
17 the front door, correct?

18 A. Yes, sir.

19 Q. Weren't paying attention to what was in the
20 bag, correct?

21 A. No, sir.

22 Q. Weren't paying attention to where she put her
23 mail, correct?

24 A. No.

25 Q. What were you paying attention to?

1 A. Driving and Kelsay.

2 Q. But Kelsay was the one that was doing these
3 things, correct?

4 A. Doing what things?

5 Q. Picking up her mail?

6 A. Picking up her mail, yes, sir.

7 Q. Okay. So these were bags you say that she was
8 carrying with her at the time that you picked her
9 up. Did she put anything into those bags when she
10 was in the house?

11 A. Not that I can recall.

12 Q. You weren't paying attention?

13 A. Wasn't paying attention.

14 Q. Okay. So what happened after she began to
15 collect the things that were in what you claim you
16 thought was her house?

17 A. The landlord showed up -- or the landlord's
18 father.

19 Q. Did you know it was the landlord's father at
20 the time?

21 A. No.

22 Q. Who did you think it was at the time?

23 A. A neighbor, maybe.

24 Q. So when you saw him, what happened after that?

25 A. I called for Kelsay to come back from one of

1 the back rooms of the trailer.

2 Q. So what were you doing in the front room?

3 A. Standing there.

4 Q. How long you reckon you were in there before
5 the father of the owner showed up?

6 A. Not long, maybe five minutes.

7 Q. So you were just standing there for five
8 minutes?

9 A. Yes, sir.

10 Q. So at that point when the father comes and you
11 say that you saw him, you told -- you said you
12 yelled out for Kelsay, is that what your testimony
13 is?

14 A. Yes, sir.

15 Q. What happened after that?

16 A. He asked what she was doing there and let me
17 know -- or let us know that she had been evicted and
18 shouldn't be there.

19 Q. She let you know that?

20 A. No, the older gentleman did.

21 Q. So what did you do after that?

22 A. I left.

23 Q. So your testimony is that you left before she
24 did?

25 A. I left the house before she did, yes.

1 Q. And got in the truck?

2 A. And got back in the truck.

3 Q. So why didn't you just leave?

4 A. Wouldn't that be kind of rude and mean to leave
5 somebody?

6 Q. Okay. Let me ask you this question: I don't
7 know what you think, so that's why I'm going to ask.
8 If you were just put on notice that wasn't her house
9 by the person whose father owned, do you think that
10 was criminal activity that you were just involved in
11 or that according to you, she sugared you into it --

12 MR. SUTHERLAND: Objection, ask for a
13 conclusion of law.

14 MR. POGUE: Your Honor, I'm just asking if he
15 thinks what he was involved in was a criminal
16 offense?

17 MR. SUTHERLAND: It's still a conclusion of
18 law. Is this a statute? Is this a crime?

19 THE COURT: All right. Just rephrase it.

20 MR. POGUE: Beg the Court's indulgence.

21 Q. So what -- let me rephrase it this way. What
22 were you thinking at that time when he told you
23 that?

24 A. That I needed to get out of there.

25 Q. Why did you need to get out of there?

1 A. Because I shouldn't have been there.

2 Q. Well, what does that mean, I shouldn't have
3 been there? Who are you going to be in trouble
4 with?

5 A. The law.

6 Q. Okay. So if I understand you correctly, if you
7 think you're in trouble with the law, it's possible
8 that you may have just committed a criminal offense?

9 A. Possibly, yes.

10 Q. Okay. So instead of getting in the car taking
11 off running, you didn't think maybe I should call
12 the police? I didn't have anything to do with this.
13 I'm innocent. Why didn't you call the police and
14 say you know what, she told me she lived here and I
15 broke that door down, but I didn't mean to because I
16 thought -- and she asked me to? Why didn't you say
17 that? Why didn't you call the police?

18 A. I don't -- I'm not too sure how the answer
19 that.

20 Q. Is the reason why you're not too sure how to
21 answer that is because you knew it wasn't her house
22 and you helped her break into it?

23 A. No.

24 Q. Well, what's the other -- I mean, help me out
25 here?

1 A. I don't like to call the police.

2 Q. Why don't you like to call the police?

3 A. It's just a thing.

4 Q. It's just a thing?

5 A. I don't like to see people lose their freedom
6 or see people in trouble.

7 Q. It's not about getting somebody else in
8 trouble, it's about clearing your own name, correct,
9 so that you don't get in trouble? Because if you
10 really didn't know anything about it, right, you
11 didn't commit a crime because you have to have
12 intent, correct?

13 A. I'm assuming.

14 Q. Okay. So I'm asking you again, what does that
15 mean when you say you don't like to call the police
16 to clear your own name?

17 A. I just don't call the police on people.

18 Q. Okay. So what happened after that?

19 A. She got in the truck, left the driveway and
20 road up 321.

21 Q. All right. Let's rewind. Rewind. So you say
22 that you went and got in the truck and you waited on
23 her?

24 A. Yes, sir.

25 Q. After you just found out that that was not her

- 1 house. How long did you wait on her?
- 2 A. Two or three minutes tops, maybe.
- 3 Q. She eventually came out?
- 4 A. Yes.
- 5 Q. Did she have anything with her when she came
- 6 out?
- 7 A. She had a couple bags and I think a laundry
- 8 basket.
- 9 Q. Bags and a laundry basket?
- 10 A. Yes, sir.
- 11 Q. Where was the laundry basket, in the bed of the
- 12 truck?
- 13 A. In the bed of the truck.
- 14 Q. It was in the bed of the truck. Did you watch
- 15 the video that was played during the chase?
- 16 A. Yes, sir.
- 17 Q. That laundry basket that we saw fly in the
- 18 road, was that that basket?
- 19 A. Most likely, yes, sir.
- 20 Q. Did she bring anything else in the truck other
- 21 than the bags you mentioned and the laundry basket?
- 22 A. Not that I paid attention to.
- 23 Q. Did you say anything to her, like, what's going
- 24 on, man? Why did you have me involved in this?
- 25 A. Not really. I was kind of mad and I was just

1 trying to figure out where I could drop her off at.

2 Q. You were angry with her?

3 A. Yes.

4 Q. What did you do after that once she got in the
5 car?

6 A. Nothing, I didn't talk to her.

7 Q. Where did you drive to?

8 A. I got to 321.

9 Q. When you got to the corner of Ben Spires and
10 321, you saw Chief Watkins with the Gaston Police
11 Department tried to initiate a traffic stop on your
12 truck?

13 A. Yes, sir.

14 Q. Did you stop?

15 A. No, sir.

16 Q. Why didn't you stop?

17 A. Because my license was suspended.

18 Q. Because your license was suspended. All right.
19 When you first failed to stop, you're not really
20 driving real fast. Are you trying to run at that
21 particular point in time? Why are you not driving
22 fast like you eventually started to do?

23 A. I was trying to debate on whether I was going
24 to run or not run.

25 Q. And what was involved in that process in your

1 mind whether you were going to run or not run? What
2 were you deliberating?

3 A. Whether I should or not.

4 Q. Whether you should or not?

5 MR. POGUE: Beg the Court's indulgence.

6 Q. We'll come back to that. So you begin to drive
7 faster after he tries to pull up behind you. Did
8 you see him trying to pull up behind you like that?

9 A. Yes, sir.

10 Q. All right. Is that why you started to run
11 faster -- or drive faster, I should say?

12 A. I -- I don't really --

13 Q. Did you know at the time what a pit maneuver
14 was?

15 A. Yes.

16 Q. Did you suspect that's what he was trying to do
17 to you?

18 A. Yes.

19 Q. Is that why you started driving faster?

20 A. Yes.

21 Q. So at that point in time, you obviously had
22 made the assessment it was better for you to run?

23 A. Yes, sir.

24 Q. Okay. Prior to this, you say you were driving
25 under suspension. Did you not -- were you not

1 worried or not care that you weren't allowed to
2 drive?

3 A. Driving under suspension is only bad whenever
4 you're pulled over.

5 Q. So it's only bad to commit crimes if you're
6 caught?

7 A. No, driving under suspension is.

8 Q. Okay. Do you know why you would think that
9 it's okay to drive under suspension if the law says
10 you can't?

11 A. It's not. It's not okay, but it's driving.

12 Q. Okay.

13 A. People got to get to A and B.

14 Q. When you say it's just driving, are you saying
15 that's not an inherently dangerous thing to do?

16 A. It is when you don't know how to drive.

17 Q. So explain to me what you mean when you say
18 it's just driving?

19 A. I was just driving, man. I was just driving
20 the truck.

21 Q. Why were you driving the truck if you were
22 under suspension? You didn't care that it was
23 against the law?

24 A. I did.

25 Q. Then why did you do it?

1 A. I don't know.

2 Q. Okay. So you start driving faster. And I
3 assume that you encountered the numerous different
4 law enforcement agencies and vehicles that were
5 following you during the course of this high speed
6 chase, correct?

7 A. Yes, sir.

8 Q. Okay. And did you care at all about the
9 inherent danger that you were inflicting to the
10 community when you were doing that?

11 A. I did, that's why I tried to get off the main
12 roads and on the dirt roads.

13 Q. What would you say were the main roads in the
14 Gaston area?

15 A. 321 and Mimosa.

16 Q. Would you say Fish Hatchery is a main road in
17 the Gaston area?

18 A. Yes, sir.

19 Q. Would you say that Wood Trail is a big main
20 road in the Gaston area?

21 A. For the most part, yes.

22 Q. How about Mimosa?

23 A. Yes.

24 Q. Okay. Did you take them on chases down those
25 roads?

1 A. Yes.

2 Q. Help me, explain that. Help me understand.

3 A. I was looking for a dirt road trying to get
4 away. I was scared.

5 Q. So your assessment that you came to your mind
6 was that your -- I believe your attorney elicited
7 that you did 60 days on driving under suspension,
8 that was worth all of that?

9 A. I don't understand.

10 Q. I'm asking you, did you think when you started
11 to run that this DUS, you know, potential offense is
12 worth everything that you were doing to avoid it?

13 A. I was thinking more of the financial burden and
14 going to jail.

15 Q. The financial burden. Did you consider those
16 things when you started driving without having a
17 valid active license? Did you consider the
18 financial burden at that point?

19 A. Not at the time.

20 Q. Okay. All right. So when you were driving --
21 well, let me just ask you this: Eventually, you
22 came to a driveway where you had to go through a
23 couple of vehicles and I think maybe a trailer or
24 something to get to the back of the property where
25 you eventually ended up crashing. Do you recall

1 that?

2 A. Yes, sir.

3 Q. And do you recall Chief Watkins chasing you on
4 foot?

5 A. I recall Chief Watkins getting out of his
6 vehicle and pointing a gun at me.

7 Q. Was the reason -- well, when he was pointing a
8 gun at you, could you hear anything that he was
9 saying or understand anything he was trying to get
10 you to do?

11 A. I'm assuming he was trying to get me to stop,
12 but I couldn't hear anything he was saying.

13 Q. Were you concerned he may potentially shoot you
14 at that point in time?

15 A. Yes, sir.

16 Q. And that was worth a DUS for you as well?

17 A. I don't think nobody should get shot.

18 Q. I agree with you. I don't like to see anybody
19 get shot either, that's why I'm asking you did you
20 think a DUS was worth potentially getting shot?

21 A. Would it be worth getting shot, is that what
22 you're asking?

23 Q. My question is, did you make the assessment in
24 your mind that this is worth it to potentially get
25 shot to avoid a DUS?

- 1 A. No.
- 2 Q. You did not make that assessment?
- 3 A. I didn't expect him to pull a gun on me.
- 4 Q. So you just got done taking multiple law
- 5 enforcement agencies on a high speed chase for like
- 6 around 15 minutes throughout the Gaston area and you
- 7 didn't think that at any point in time they may pull
- 8 a service weapon on you to try to get you to exit
- 9 the vehicle?
- 10 A. Not when --
- 11 Q. That's not something that you considered when
- 12 you were doing that?
- 13 A. Not at the time, no.
- 14 Q. It shocked you the fact that law enforcement
- 15 felt the need to protect themselves and have their
- 16 service weapon pulled to try to apprehend you?
- 17 A. A little bit.
- 18 Q. Let me ask you this question: Do you feel like
- 19 you had at that particular point in time showed any
- 20 regard for the safety of the officers or anyone else
- 21 in the community?
- 22 A. I'm not sure how to answer that.
- 23 Q. Let me rewind. You said you were shocked or
- 24 surprised that he pulled a weapon on you?
- 25 A. Yes, sir.

- 1 Q. So you didn't think that was going to be
2 something that would happen as a consequence of the
3 result of what you did?
- 4 A. It could be a possibility, but it still shocked
5 me.
- 6 Q. But even that it shocked you, it didn't shock
7 you enough to get you to stop at that point?
- 8 A. It drove me through the trees.
- 9 Q. It made you drive through trees?
- 10 A. Yes, sir.
- 11 Q. So what happened when you crashed in the trees?
- 12 A. Well, I just had a gun pulled on me and I was
13 scared, so I ran.
- 14 Q. When you crashed into the trees, did you bother
15 to ask or check to see whether your passenger was
16 okay?
- 17 A. No.
- 18 Q. What were you concerned with at that point in
19 time?
- 20 A. Getting away.
- 21 Q. To avoid what?
- 22 A. To avoid the failure to stop for blue lights
23 and the DUS.
- 24 Q. Have you ever run because you were driving
25 under suspension before?

1 A. No, sir, this would be my first time.

2 Q. So what was different? Why would you do it
3 this time?

4 A. The previous times, I was in my mom's vehicle.

5 Q. What -- explain to me --

6 MR. SUTHERLAND: If I may Judge, he's going
7 into past events and past DUSes.

8 THE COURT: I don't think he did. He just
9 asked if he'd ever run before. I think that's free
10 game.

11 Go ahead, Mr. Pogue.

12 Q. Explain to me what the significance of what
13 vehicle your were in matters when you're trying to
14 discuss whether to avoid a driving under suspension?

15 A. Not my property. I can't make that call of
16 destroying my mom's vehicle or anybody else's
17 vehicle. That was my property at the time.

18 Q. I want to make sure I understand what you're
19 saying. It's okay for you to endanger the entire
20 community of Gaston to avoid a DUS, but, heaven
21 forbid, you may crash your mother's vehicle. Do you
22 recall passing a school bus?

23 A. I do.

24 Q. So that was okay with you, but not wrecking
25 your mother's car? That's why you didn't run last

1 time? Is that what you're saying?

2 A. Yes, sir.

3 Q. Are you sure the reason why you weren't running
4 was because of the trafficking level of
5 methamphetamine in the car and that you knew you
6 were just coming from a burglary when they tried to
7 stop you? That wasn't why you were running?

8 A. No, sir.

9 Q. You had no knowledge whatsoever of that?

10 A. I had no knowledge of the drugs.

11 Q. Help me understand why it is that you think
12 it's okay to inflict that sort of danger on the
13 community to avoid a DUS --

14 MR. SUTHERLAND: Judge, this is redundant.
15 He's doing it over and over again.

16 THE COURT: Let me hear it.

17 MR. POGUE: I'll ask this one last time, Your
18 Honor, and then I'll move on.

19 BY MR. POGUE:

20 Q. I just want to understand what it is that you
21 feel like it's okay in your mind, the justification
22 for not damaging your mother's vehicle, but it's
23 okay to have other police cars damaged in their
24 pursuit of you and potentially endangering your
25 life, your passenger's life, the lives of people in

1 the community on a high speed chase? Why is it okay
2 to do that, but not inflict damage on your mother's
3 vehicle?

4 A. It's not.

5 Q. I'm asking you -- you said that, I didn't say
6 that. I'm asking you why you said the reason you
7 didn't run last time is because you didn't want to
8 damage your mom's car?

9 A. It wasn't my car.

10 Q. I'll move on.

11 When the car wrecked, what happened after that?
12 I believe you said you got out and you took off
13 running?

14 A. Yes, sir.

15 Q. Could you see any officers pursuing you?

16 A. No, sir.

17 Q. Could you hear them?

18 A. No, sir.

19 Q. So what did you do after you got out the
20 vehicle?

21 A. Got out the vehicle? I ran.

22 Q. Okay. Well, where did you run to?

23 A. I ran straight -- I don't really know where I
24 was at the time, that's why I ran and hid. I had no
25 clue where I was at.

- 1 Q. So you're not familiar with the Gaston area?
- 2 A. No, sir.
- 3 Q. Where did you hide?
- 4 A. I hid in the drainage ditch.
- 5 Q. Did you throw anything away or try to throw
- 6 anything away that you had on yourself, on your
- 7 person when you were running?
- 8 A. No.
- 9 Q. There's one thing I forgot to ask you about:
- 10 You say you didn't notice the notice that was on the
- 11 front door?
- 12 A. No, sir.
- 13 Q. Did you notice that padlock that was on that
- 14 front door or you didn't notice that either?
- 15 A. I wasn't paying that much attention to the
- 16 front door.
- 17 Q. So your answer is you did or did not notice the
- 18 padlock?
- 19 A. Did not notice it.
- 20 Q. Oh, so you said that you were angry at her,
- 21 correct?
- 22 A. Slightly.
- 23 Q. Slightly. Before you said you were angry, so
- 24 were you angry or were you slightly angry at her?
- 25 A. I was not particularly happy with Ms. Spurlock

1 when the landlord's father showed up and said that
2 we shouldn't be there.

3 Q. Was she particularly happy with you running
4 from law enforcement?

5 A. I don't recall.

6 Q. Didn't matter to you or you don't recall?

7 A. I was paying attention to the driving.

8 Q. All right. So after you are taken into
9 custody, eventually, you're put into the back of a
10 police car with her, correct?

11 A. Yes, sir.

12 Q. Were you angry with her then?

13 A. I was honestly more or less tired.

14 Q. Because you were running?

15 A. Yes, sir.

16 Q. Okay. So you don't recall whether you were
17 angry with her or not?

18 A. I -- it stopped mattering at that point, I was
19 in handcuffs.

20 Q. Okay. So the fact that law enforcement put you
21 in handcuffs, that just -- that -- at that point, it
22 doesn't matter whether you're angry or not anymore,
23 you're just saying you're not angry because you're
24 caught? I'm not trying -- let me stop and rephrase.

25 You said it doesn't matter at that point, why

1 does it not matter at that point?

2 A. Because I just lost my freedom.

3 Q. Okay. Well, you understand that you just
4 getting arrested doesn't mean you're being sentenced
5 by a judge or anything like that, it's just you're
6 being arrested and booked, correct?

7 A. It don't feel that way.

8 Q. So what I'm asking you, you weren't angry at
9 her anymore at that point, that's what your
10 testimony is at that point?

11 A. At that point, yes.

12 Q. Were you feeling affectionate towards her at
13 that particular point?

14 A. Slightly.

15 Q. Explain that.

16 A. Well, she would be the last female I see for
17 however long until I get out.

18 Q. Why did you think you'd be going away forever
19 for a DUS?

20 A. Because I didn't have no bond money and 60 days
21 is a long time.

22 Q. Well, you said that the law enforcement officer
23 told you about the methamphetamine in the vehicle,
24 correct?

25 A. Yes.

1 Q. And your testimony is that you knew nothing
2 about that prior to this, correct?

3 A. Yes.

4 Q. Okay. So you weren't upset with her about that
5 at all if it wasn't yours?

6 A. It wasn't mine.

7 Q. So you weren't upset with her about that
8 either?

9 A. I wasn't upset at all.

10 MR. POGUE: No further questions, Your Honor.

11 THE COURT: Redirect, Mr. Sutherland?

12 MR. SUTHERLAND: Briefly. I think Jake handled
13 it --

14 REDIRECT EXAMINATION

15 BY MR. SUTHERLAND:

16 Q. That last answer, 60 days is a long time to
17 anybody. 60 days in basic training in the Army.

18 I do want to ask you, though, the solicitor was
19 talking about how were you driving around with her
20 and not going through her bags or something. And
21 you were talking earlier about being rude to leave
22 somebody. It's rude to go through somebody's bags,
23 too, isn't it?

24 A. Yes, sir.

25 MR. SUTHERLAND: No further questions, Your

1 Honor.

2 THE COURT: Mr. Story?

3 MR. STORY: Beg the Court's brief indulgence.

4 THE COURT: Sure. Take your time.

5 MR. SUTHERLAND: The scope of redirect is
6 rudeness if he's got questions about that.

7 THE COURT: Excuse me?

8 MR. SUTHERLAND: Your Honor, if he's got
9 question about redirect, I did redirect, I did one
10 question. So the scope of redirect for him to ask
11 questions about it being rude to go through people's
12 stuff, in my opinion.

13 MR. POGUE: Your Honor, this is a matter of
14 law.

15 THE COURT: It is. Let me see the lawyers.

16 (Sidebar conference.)

17 MR. SUTHERLAND: Sorry, Your Honor.

18 THE COURT: I think we're good.

19 MR. STORY: Briefly, Your Honor.

20 RE CROSS-EXAMINATION

21 BY MR. STORY:

22 Q. Jake, your attorney asked you about not knowing
23 what was in the bag, right?

24 A. Yes, sir.

25 Q. You said it was rude to go through other

1 people's things?

2 A. Yes, sir.

3 Q. Jake, it was your testimony prior that the bag
4 remained -- that the bags remained where they were
5 throughout the entire chase?

6 A. I mean, I don't know. The ride kind of got a
7 little rough -- I'm not sure if it --

8 MR. POGUE: Your Honor, I can't hear him.

9 THE COURT: Mr. Fredrickson, you need to speak
10 into the microphone. Try again.

11 That might have been my fault, Mr. Story.

12 Now try it.

13 THE WITNESS: Hello.

14 THE COURT: Sorry about that, y'all. My fault.

15 THE WITNESS: I'm not too sure. I really
16 wasn't paying attention to the placement of the
17 bags.

18 BY MR. STORY:

19 Q. You said the ride got a little rough?

20 A. Yes.

21 Q. And the whole time, you didn't notice what was
22 in the bag?

23 A. No, I was paying attention to the road.

24 MR. STORY: Thank you. No further questions.

25 THE COURT: Anything else?

1 MR. POGUE: Nothing from the State, Your Honor.

2 MR. SUTHERLAND: No, Your Honor.

3 THE COURT: All right. I need to give the jury
4 a break right quick. I'm trying to make sure they
5 get lunch. If I don't have an order in, in the next
6 three minutes, they're not going to get lunch; is
7 that right?

8 THE CLERK: Yes, ma'am.

9 THE COURT: So Mr. Foreman, I'm going to excuse
10 y'all and let y'all go order lunch. When you're
11 finished, just knock on the door with the bailiff
12 and I'll let you back in. Only talk about lunch.
13 Nothing about the case.

14 (The jury exits the courtroom at 12:01 PM.)

15 THE COURT: All right. Mr. Fredrickson, you
16 can return to your table, please.

17 Are there any more witnesses?

18 MR. SUTHERLAND: I was going to call the chief
19 about the paraphernalia charge. I was also going to
20 call him, but if I was going to call him, it would
21 just be saying didn't you have this conversation
22 with Jake --

23 THE COURT: I'm not letting the paraphernalia
24 in.

25 MR. SUTHERLAND: Yes, ma'am. I mean, I guess I

1 would call him for a couple questions, did you have
2 this conversation with Jake, that he did it because
3 his license was suspended.

4 MR. STORY: I'll object, that's bolstering.
5 It's -- unless --

6 MR. GRAHAM: If I can, Your Honor, if he's
7 planning on calling the officer to ask him did my
8 client tell you that, it's not proper. Nobody is
9 saying it wasn't said. He's bolstering a prior
10 statement when nobody is saying that it wasn't said.

11 THE COURT: Is there anything else, Mr.
12 Sutherland, you're going to ask? I mean, the Court
13 is not telling you you can't call as a witness who
14 you want to. These lawyers might object to what you
15 ask, but the Court is just inquiring as to whether
16 there's going to be another witness.

17 MR. SUTHERLAND: Yes, ma'am. I don't know, I
18 think he challenged his statement about he was
19 running because of DUS. And I think he told the
20 officer he was running because of DUS. So I think
21 it is to reply to that.

22 MR. POGUE: Your Honor, that's self-serving
23 hearsay.

24 THE COURT: Well, I agree.

25 MR. POGUE: That's exactly what Mr. Graham told

1 him.

2 MR. SUTHERLAND: Okay. Well, sorry to make you
3 stick around, Chief. So we're done.

4 THE COURT: Mr. Story, anything from you?

5 MR. STORY: No, Your Honor.

6 THE COURT: Okay. While the jury is ordering
7 lunch, I can safely assume the defense intends to
8 rest.

9 MR. SUTHERLAND: That's right.

10 THE COURT: Let me go ahead and put all the
11 motions on the record now while the jury is ordering
12 lunch. When they come back in, y'all can rest and
13 then we'll go into closings.

14 Mr. Pogue, you got any motions?

15 MR. POGUE: I don't have any issues, Your
16 Honor, no motions.

17 MR. SUTHERLAND: I guess I have to remove for a
18 directed verdict, Your Honor. And the basis on the
19 burglary third would just be that there was no
20 evidence of intent to commit a crime therein and it
21 would just be on the trafficking.

22 MR. STORY: Your Honor, I join in Mr.
23 Sutherland's motion.

24 THE COURT: I've ruled on that previously.
25 It's noted for the record and the Court still denies

1 it.

2 Any other motions?

3 MR. SUTHERLAND: No, ma'am.

4 MR. STORY: No, ma'am.

5 THE COURT: I will tell y'all, I am going to
6 let the jury know when I do charge them that as a
7 matter of law it is not a burg second, it is a burg
8 third. And that is going to be the language in the
9 charge.

10 I need to see the lawyers really quickly about
11 these jury charges.

12 (Sidebar conference.)

13 THE COURT: All right. Has everyone looked
14 over the jury charges? Any additions, deletions or
15 anything, Mr. Pogue?

16 MR. POGUE: Not that I can see, Your Honor.

17 THE COURT: Mr. Sutherland?

18 MR. SUTHERLAND: No, ma'am.

19 THE COURT: Mr. Story?

20 MR. STORY: No, Your Honor.

21 THE COURT: Good. We're all in agreement. Are
22 y'all ready for closings?

23 MR. SUTHERLAND: Yes, ma'am.

24 THE COURT: When I bring the jury back in, I'll
25 call on you, Mr. Sutherland, for your next witness.

1 I'll call on you, Mr. Story, to see if you're
2 going to present anything. Y'all need to rest on
3 the record, okay?

4 MR. SUTHERLAND: Yes, ma'am.

5 THE COURT: All right. Let's bring them in.

6 MR. SUTHERLAND: I have to renew.

7 THE COURT: I think you both did and they're
8 noted for the record.

9 MR. SUTHERLAND: Thank you, Your Honor.

10 (The jury enters the courtroom at 12:30 PM.)

11 THE COURT: All right. Mr. Foreman, is the
12 jury ready?

13 THE FOREMAN: Yes, ma'am.

14 THE COURT: Mr. Sutherland, you can call your
15 next witness.

16 MR. SUTHERLAND: Your Honor, the defense rests
17 for Jake Fredrickson.

18 THE COURT: Mr. Story.

19 MR. STORY: May it please the Court. The
20 defense rests for Kelsay Spurlock.

21 THE COURT: All right. Are we ready for
22 closing arguments?

23 MR. POGUE: Yes, Your Honor.

24 MR. STORY: Yes, Your Honor.

25 MR. SUTHERLAND: Yes, ma'am.

1 MR. STORY: Your Honor, we didn't put anything
2 in evidence, I would move to close last pursuant to
3 State v. Lee in the interest of justice.

4 MR. SUTHERLAND: Well, I think they close first
5 and then reply even though we put evidence up.

6 THE COURT: Right. But I think Mr. Story gets
7 the last go.

8 MR. SUTHERLAND: Yes, Your Honor.

9 MR. POGUE: Yes, Your Honor, I believe he would
10 get the last rebuttal.

11 THE COURT: He does.

12 Mr. Pogue, I'm ready for you.

13 MR. POGUE: Thank you, Your Honor. May it
14 please the Court?

15 THE COURT: Yes, sir.

16 MR. SUTHERLAND: I'm sorry, may we approach
17 just real quick, Your Honor?

18 THE COURT: Sure.

19 (Sidebar conference.)

20 MR. POGUE: It is the afternoon now, so good
21 afternoon. When I stood up here and I spoke to
22 y'all, I guess it was yesterday, that this case was
23 going to be about common sense. And I hope you kind
24 of gathered a little bit about what I was talking
25 about since you've heard the testimony and watched

1 the videos and seen the photos and been able to take
2 in what's transpired in the courtroom, I guess, over
3 the past day and a half now.

4 And when I said the case was about common
5 sense, I said sure, it's about a lot of other
6 things. It's about burglary, it's about failure to
7 stop for a blue light and, most certainly, is about
8 trafficking methamphetamine. But it's about common
9 sense.

10 So let's take a look and review for a moment
11 what exactly it is the defendants in this case, Ms.
12 Spurlock and Mr. Fredrickson, what exactly they're
13 charged with.

14 Well, they're charged with first and foremost,
15 in regard to Mr. Fredrickson's failure to stop for a
16 blue light. I don't even know that I need to make
17 an argument to you whether he failed to stop for a
18 blue light. The Judge will charge you what the law
19 is in that regard. But the elements, essentially,
20 include somebody who is driving a vehicle, a law
21 enforcement officer initiating his blue lights and
22 the person failing to stop after they initiate their
23 blue lights.

24 From the lengthy chase that you were able to
25 see that took place on multiple dash cams and

1 multiple body cams, the State believes we've put
2 forth ample evidence that he failed to stop for a
3 blue light. And I believe even the defense attorney
4 for Mr. Fredrickson admits he's guilty of that
5 particular charge.

6 So moving along, in this case, there are also
7 both defendants, Ms. Spurlock and Mr. Fredrickson
8 are charged with burglary. Burglary third degree in
9 this case is -- let me make sure I tell you the law
10 correctly. I don't want to tell you anything that's
11 incorrect or different from what the Judge is going
12 to tell you. In order to prove third degree
13 burglary, we, the State, must first prove beyond a
14 reasonable doubt that the defendants entered a
15 building without consent. She will define to you
16 what a building is. But needless to say, it's very
17 clear after she explains the law to you that this
18 particular residence is, indeed, a building.

19 And at this particular point in time, we move
20 to the other elements, which is that you also have
21 to prove that they entered the property. From the
22 defendant's own testimony and from the testimony of
23 the victim's father, Mr. Spires, both of them
24 clearly entered the building. At that point in
25 time, we'd move to intent. They had to have the

1 intent to commit a crime upon the entry of that
2 building.

3 You are able as jurors to infer a criminal
4 intent if you deem appropriate from the actions that
5 have taken place from the defendants through
6 testimony and video evidence, through the various
7 forms of evidence that are either circumstantial or
8 direct that have been presented to you.

9 I hope you were paying attention a little on my
10 questions that I asked of Fredrickson. And you'll
11 have to make an assessment in regard to his
12 credibility as you will for all of the witnesses who
13 have testified. And that's another important thing.
14 And I'll touch on that here in a minute. But you
15 also, as I mentioned, have to decide whether they
16 had an intent to commit a crime when entering.
17 Trespassing after notice is a crime. You cannot
18 enter into a property that has been locked
19 without --

20 MR. STORY: Your Honor, I object. That's a
21 misstatement of the law as to intent, Your Honor.

22 MR. POGUE: Your Honor, I -- if we need to make
23 a sidebar, we can, but --

24 THE COURT: I didn't hear the -- if we need to
25 have a sidebar, we can, but I don't agree.

1 Let me have a sidebar.

2 (Sidebar conference.)

3 THE COURT: All right. I'm overruling you, Mr.
4 Story.

5 Continue please, Mr. Pogue.

6 MR. POGUE: As I was saying, trespassing after
7 notice in South Carolina is the law. I'm sure y'all
8 have seen many times, and I'll put it up there one
9 more time, the notice that was on the front door,
10 which Mr. Fredrickson admitted that he parked
11 directly in front of but was not paying attention
12 and didn't see it.

13 Then you have also the fact that all of the
14 doors according to the testimony of Mr. Spires, Sr.,
15 Deke Spires, and his son, Dwayne Spires, that they
16 left that property locked completely, doors,
17 windows, everything. There would be no way to get
18 in there unless he -- I think his testimony was
19 unless he allowed them in there without them
20 breaking something to get in there. You'll have to
21 make that assessment as to whether it's a
22 coincidence or not that the rear door is, in fact,
23 broken. So the door being broken would also be a
24 crime the State would put forth to the jury as well.

25 So you have multiple crimes that they intend to

1 commit as they enter the property, trespassing
2 and/or destruction of property. So that would
3 clearly satisfy that last element of burglary.

4 Now, moving on to the trafficking -- well,
5 before I get there, I've mentioned that you'll have
6 to make an assessment of all of the witnesses'
7 credibility. You are the judges of the facts as the
8 Judge will tell you. She is the judge of the law.
9 You determine what the facts of the case are. You
10 do that by taking in, assessing all of the evidence
11 that's been presented and assigning the weight that
12 you deem appropriate. So you can totally disregard
13 what some witnesses say because you don't believe
14 that they're credible, or you can completely believe
15 everything that a witness says because you believe
16 from your assessment as jurors that that particular
17 witness was credible.

18 So the State would put forth that Mr.
19 Fredrickson couldn't really offer an explanation for
20 why it was that he didn't notify law enforcement to
21 clear his name other than he just didn't like to
22 call the police. So you'll have to, again, assess
23 the statements that he made as to whether he knew he
24 was committing a crime and intended to commit a
25 crime when he entered into that building.

1 You also have to make a determination with
2 regard to what his credibility is as to his
3 statements about why he was running from the police.
4 You'll have to make a determination as to whether
5 you believe that it's credible that somebody goes
6 through all that for a DUS. He testified that he
7 previously hadn't run for a DUS because he was
8 driving his mother's car at the time. Not because
9 he had trafficking level of methamphetamine in the
10 car and that he was just coming from a burglary.

11 So when I mention common sense to you, that's
12 what I'm talking about. You have to use your common
13 sense to make a determination as to whether you find
14 that credible or not. It would be nice as
15 prosecutors if we could just, you know, like a
16 surgeon, dissect and open up somebody's brain and
17 show you exactly what it is they were thinking. But
18 that's why you have common sense and that's why it's
19 a valuable tool because you're the ones who make
20 that assessment.

21 Now, moving on to trafficking. There's,
22 essentially, at the end of the day only two elements
23 for trafficking. I can read to you what the Judge
24 is going to charge you. But amongst all the
25 different ways that you can commit trafficking,

1 which, essentially, the law is that they have to
2 knowingly sold, manufactured, cultivated, delivered,
3 purchased, brought into the state, provided
4 financial assistance or otherwise aided, I'll repeat
5 that, or otherwise aided, abetted, attempted or
6 conspired to sell, manufacture, cultivate, purchase,
7 bring into the state or was knowingly in actual or
8 constructive possession of methamphetamine in an
9 amount greater than 28 grams, but less than 100.

10 We'll do the easy part first. There's only two
11 elements I have to prove, either that they possessed
12 and that the amount that they possessed was greater
13 than 28 grams. Those are the only two things I have
14 to prove to you beyond a reasonable doubt for you to
15 be able to find the defendants, both of them in this
16 particular case, guilty of trafficking.

17 You know what the law also says? The law also
18 says that more than one person can possess drugs.
19 Two people can jointly possess an item. It does not
20 have to be possessed by just one particular person.
21 I'm sure many of you are married. You have what's
22 called joint marital property. Now, obviously, the
23 co-defendants are not married, but it's the same
24 principle for all of our relationships in life. It
25 doesn't mean one person owns something to the

1 exclusion of the other. In this particular case,
2 the State believes we put forth sufficient evidence
3 to show that they both jointly possessed over 28
4 grams in methamphetamine.

5 First, again, I'll take the easy element, which
6 is the weight. This was the SLED report that the
7 State has put into evidence and that you'll have in
8 the jury room back there with you if you want to
9 look at them more closely. Really, all you need to
10 do is skip the line item 1.5 and you can see from
11 Ms. Black's report that the net weight was 54 --
12 focus is gone there -- 54 point whatever it is 74
13 grams. Clearly, 54 is more than 28. So if you
14 believe Ms. Black's testimony, then we have
15 satisfied the first element, which is that the
16 weight of the methamphetamine -- or excuse me, she
17 did find, obviously, it was methamphetamine as well
18 that was 54 grams, so we've satisfied the fact that
19 they had a -- the weight of the meth was over 28
20 grams.

21 Now, it goes to possession. There's,
22 essentially, two types of possession that the Judge
23 will instruct you on. There's what we call actual
24 possession and constructive possession. Actual
25 possession is pretty simple. I'm holding this pen

1 right now. I'm in actual possession of it. It's on
2 my person. I have it in my physical custody.

3 Constructive possession is like all the stuff
4 you have at your house right now. Obviously, you're
5 not at your home and you don't have all of the items
6 that you have in your home, your jewelry, your
7 furniture, all that stuff. You don't carry that
8 around on your person, so it's not in your actual
9 position. But it is in what we call constructive
10 possession.

11 And constructive possession, the Judge will
12 tell you, is -- let me make sure I get that correct
13 as well. Constructive means that defendants had
14 dominion and control or the right to exercise
15 dominion and control over either the methamphetamine
16 itself or the property on which the methamphetamine
17 was found. And they also have to have the intent to
18 possess the methamphetamine.

19 So there's, essentially, two parts of
20 constructive possession, that they have the right to
21 exercise control over it and they intend to exercise
22 control over it. Again, going back to the stuff
23 that you have in your house right now. You have the
24 right to exercise dominion and control over the
25 things in your house and I'm sure that you intend to

1 possess the things that are in your house.

2 He has the right to possess and has dominion
3 and control over the things that are in what he said
4 was in his truck. So you have to assess whether he
5 intended to possess that at that particular time or
6 not either jointly or solely.

7 As it relates to Ms. Spurlock, well, even Mr.
8 Fredrickson's testimony was that the
9 methamphetamine, the large bag of methamphetamine
10 that was found was inside a bag that Mr. Fredrickson
11 claims she had on her person from the time that he
12 went and picked her up from Cayce. The State would
13 also put forth that evidence had been provided and
14 elicited to support a finding of guilty for the
15 trafficking methamphetamine 28 to 100 grams for both
16 of the defendants because they both had joint
17 possession of over 28 grams of methamphetamine.

18 What else would be evidence of the fact that
19 they maybe jointly possessed it? Well, maybe the
20 fact that he said initially that he was angry with
21 her, but when they're in the back seat of the
22 vehicle, magically, he's no longer upset at her
23 anymore. According to law enforcement officers,
24 they were lovey-dovey in the back seat. You have to
25 again assess whether the co-defendant, Mr.

1 Fredrickson, it makes sense to you and it's credible
2 that he'd be driving around in that vehicle all day
3 with that bag sitting open like that.

4 I'll show you again, I know I've shown you
5 multiple times, but I can't show you enough because
6 I have a hard time understanding that with a bag
7 open like that, that you don't ever -- for all the
8 time that you're riding around with that bag in the
9 car notice what clearly looks like a rock-like
10 substance consistent with methamphetamine, which,
11 ultimately, tested positive for methamphetamine.

12 Then we have the running from the police. If
13 you think it's credible that somebody is again going
14 to go through all of that, is going to run from a
15 law enforcement officer at gunpoint to avoid a
16 failure to stop and a driving under suspension when
17 he testified he's never done that before because he
18 was in his mother's car. If you find that credible,
19 then you should go back there and find him not
20 guilty, but if that insults your intelligence and
21 offends your sense of common sense and you believe
22 that's not credible, then you should go back there
23 and find him guilty, both him and Ms. Spurlock of
24 trafficking methamphetamine over 28 grams and guilty
25 of burglary third degree.

1 MR. SUTHERLAND: May it please the Court?

2 THE COURT: Absolutely. Go ahead, Mr.
3 Sutherland.

4 MR. SUTHERLAND: Thank you, Your Honor.

5 So here we are. This is where I've been
6 wanting to be as you can tell from the beginning.
7 I've been running like a jack rabbit to get here. I
8 want to take you back to the very beginning when we
9 first met. I mentioned that I hadn't always done
10 this. But that I've been doing this 17 years, which
11 is a good amount of time. If I'd stayed in the
12 Army, I'd have been retired at 38, 20 years, 17 plus
13 3.

14 And one of the -- I mentioned that the Court
15 had instructed everybody that the opening statements
16 weren't evidence and that is true, but that to me it
17 was one of the most important, if not really the
18 most important point of any trial. Because one of
19 the great difficulties of doing this -- you know, I
20 complained about the one-way communication and
21 talking at people and that it's rude. But how do
22 you gain the trust of 14 strangers -- and we are
23 strangers, I mean, hey, I'm Tivis, that's it.
24 That's what we know about each other. How do you
25 gain the trust of 14 strangers in, what was it, 20,

1 30 minutes?

2 Well, what I've learned to do over time is to
3 say things that prove to be true. Early on, I said
4 this isn't a dwelling, you know, so it's not a
5 burglary second degree. Well, now all of a sudden,
6 we're at a burglary third degree and we're talking
7 about buildings, right? I made that promise in the
8 beginning. And it is very dangerous to make a
9 promise because we just met each other. And if I go
10 back on anything in the short time that we've known
11 me, you're always going to be that liar up there or
12 whatever, this, that and the other. It's very
13 important to me, and I hope y'all can sort of
14 understand what I'm saying for me to lay things out
15 in the beginning for those things to come true in
16 the course of the case.

17 I will tell you, one thing the government laid
18 out in the very beginning is that this was a
19 burglary second degree of a dwelling has not come to
20 pass.

21 MR. POGUE: Your Honor, may we approach?

22 THE COURT: Yes.

23 (Sidebar conference.)

24 THE COURT: All right. Mr. Sutherland is going
25 to rephrase that for you.

1 MR. SUTHERLAND: You will notice that as a
2 matter of law, it is not a dwelling, so it is a
3 burglary third degree. I mentioned this in opening
4 and it's where we are here.

5 I told you all -- and, also, you know, Jake
6 testified. And that's important and it's tough
7 because I could tell you all didn't like some of the
8 things he was saying, but if you think about it,
9 wouldn't you rather have Jake tell you it's only DUS
10 if you get caught or would you rather have him come
11 up there and try to shine you up and say oh, yeah, I
12 feel terrible about it, it's terrible? I mean, I
13 prefer just to know what's true from people. And,
14 honestly -- I mean, you all know what I do for a
15 living. I don't make harsh judgments on people and
16 stuff like that, but some of the things that he said
17 up there I thought were not good. But I also
18 thought I would rather know. I would rather hear
19 the truth from him than just be misled or shined on.

20 I mean, I think that that -- the solicitor
21 talks about his credibility, would you do all that
22 for a DUS? For 60 days in jail? Now, 47, time
23 served, that's over a month and a half in the jail
24 over there. Y'all know where that is? A month and
25 a half over there with all them wires and people in

1 there, people charged with all sorts of stuff. 47
2 days is a long, long time. I mean, I got four kids,
3 47 days feels like about four and a half years to
4 me.

5 But as far as assailing Jake's credibility for
6 that, he just went up there and he said it like he
7 said. You know, if you don't like parts of his
8 character for saying those things, I would just hope
9 that you all would appreciate that he was
10 straightforward with you and not trying to
11 okie-dokie you. I'm not trying --

12 MR. POGUE: Your Honor, may we approach?

13 (Sidebar conference.)

14 THE COURT: Madam Court Reporter, I'm going to
15 strike part of this.

16 Just for the jury, I'm going to strike the
17 last -- I think it was the last two or three
18 sentences from Mr. Sutherland's closing argument.

19 Mr. Sutherland, you need to rephrase that and I
20 have struck it from the record.

21 MR. SUTHERLAND: You all have to decide if you
22 would rather him say one thing or another to you.
23 You all have to decide whether that makes him more
24 or less credible to you that he's just
25 straightforward about it. I don't know that anybody

1 would sit here and say sort of bad things about
2 themselves just to be saying it. I believe there's
3 a lot of credibility in that and I think you all
4 will as well.

5 And I took some notes. The solicitor is
6 talking about trespassing and talking about some
7 other crimes. I'll just tell you here and now, the
8 Court is going to instruct you all on the law,
9 right? You're not going to hear anything about
10 that. What you all need to do is follow the law
11 that the Court instructs you to do, what the law is,
12 what intent is, what the crime is, all that stuff.
13 The Court is going to instruct you on that. I'm not
14 really up here to sort of waste your time giving you
15 my view of it because you're going to hear it from
16 the Court. And that's ultimately the source of the
17 law.

18 Oh, I got that about only DUS if you get
19 caught. I've got that written down. That's what he
20 said. You all can make your decision about whether
21 he was not credible by saying that or he was.

22 I've really just got to say, you know,
23 solicitor was talking about common sense. You know,
24 to me, common sense is explanations for it, why did
25 you run? I didn't want to spend 47 days in jail.

1 How does that sound? Does that sound right? Is it
2 worth running into a tree to avoid 47 days away from
3 friends and family and society? You all have to
4 decide if that was credible or not.

5 The solicitor talking about well, he's riding
6 around all day with this bag open. Nobody testified
7 that that bag was open all day. The police
8 testified that when they went in there and they
9 searched the bag, it was open. That's what they
10 testified to. There was just no evidence that they
11 rode around all day with the bag open and that he
12 looked in the bag. And I'll tell you, I mean, you
13 all could tell from the video, his eyes were fixed
14 on that road the whole time they were driving around
15 there.

16 So I'd just ask you, just in consideration,
17 Jake is a fellow citizen and a member of our
18 community. He's done some stupid things. He's done
19 47 days for doing some stupid things. He wanted to
20 plead guilty to the stupid thing that we watched a
21 15-minute video of, and you all are about to find
22 him guilty of doing the stupid thing that we watched
23 the 15-minute video of. But he said I'm not guilty
24 of burglary, I'm not guilty of trafficking and he
25 took the stand and he explained why.

1 Is that a reasonable explanation for the
2 burglary? That young, single Jake gets a call from
3 this girl he met a couple days ago, they're talking
4 on Facebook. They're driving around listening to
5 music, hey, I live down here. Can you take me to
6 check my mail? Is that reasonable knowing what he's
7 sort of after there? Sorry for saying it. Hey, can
8 you come in my house? We have to go through the
9 back. Knowing what his and he testified to his
10 frame of mind.

11 The solicitor was talking about well, he got in
12 the back of the police car and he wasn't mad at her
13 anymore. Well, what he did not want to happen, what
14 he was angry about happened. He's sitting in the
15 back of the police car and going to jail. And we
16 all know, 47 days later testifies to -- pleads
17 guilty to that driving under suspension.

18 What evidence is there that he knew anything
19 about the drugs in there? There just isn't any.
20 You know, who was acting funny, who was acting
21 erratic? It wasn't Jake. It's not legal to drive
22 away from the police, but there's just no evidence
23 at all that he knew anything about the drugs. And
24 there's no evidence contradicting his testimony that
25 he didn't. They all want you to make assumptions

1 and guesses. At the beginning, I stated they don't
2 know because they don't, but they want you to know.
3 They know about the failure to stop for blue light.
4 Right? I told you in the beginning he did it.

5 Their complaint is why did you wait all this
6 time to want to plead to guilty to it? Well, we
7 just found out this thing was going to trial week
8 before last. We've had Corona for 18 months or
9 however long it was. This is the first opportunity
10 to come in here into court and say hey, I did this.
11 You don't need to put this in front of people. You
12 don't need to put them through all the time
13 considering it and all the time weighing evidence
14 and all that. I just want to come in here and say I
15 did it. And he got up on the stand and he said he
16 did it, so it should be pretty quick for you all on
17 that.

18 But as far as this burglary, I mean, the
19 testimony from their witnesses didn't say anything
20 that he knew. No one is saying that he knew.
21 There's no evidence of that. It's all guessing.
22 It's all well, he parked in the front and he didn't
23 see the thing. Well, he went there with that girl
24 and he went inside with that girl and that's what he
25 was doing. She says we got to go in the back. He

1 goes in the back. Why do we have to go in the back?
2 That's not what he is about, that's not what he is
3 there for.

4 And there's no evidence that he was there for a
5 burglary. They say well, you know, he bumped the
6 door. His explanation for that, I've lived in
7 trailers my whole life. If you twist the knob a
8 little bit and lean into it, the door is going to
9 pop open. I fell into it and it cracked the door.
10 Is that more reasonable than saying, you know, he
11 hatched some scheme with her to burglarize her own
12 stuff from some place that he knew she wasn't
13 supposed to be? Her mail was there. He took her to
14 get her mail. He went around back, bumped the door
15 like that, went in there. It was trashed, but it's
16 her stuff. Now, Jake said on the stand that there
17 was rotten food, something was off, but she grabbed
18 a photo album. I think I said baby pictures
19 earlier, so photo album for the sake of what I said
20 earlier versus what I'm saying now. I mean, there's
21 just no evidence of that.

22 And there's no evidence of trafficking. What
23 they're trying to do is get you to think well, he
24 ran because he's guilty off having this dope. He
25 said I ran because I didn't want to do 47 days,

1 which he did. That is reasonable. I wouldn't want
2 to do two days. You know, I mentioned I did basic
3 training. That was eight weeks, but it felt like
4 about eight and a half years at the time. It's no
5 different than jail. Everybody telling you what to
6 do, bossing you around. You can't take showers, you
7 can't wash yourself, all that stuff.

8 Jail is not pleasant. Now, it's not pleasant
9 for a reason, you don't necessarily want it to be.
10 But 47 days, a lot of people might make a lot of
11 decisions that sound stupid in front of a jury to
12 avoid 47 days at the detention center over there
13 with all the folks that are in there for all kinds
14 of other stuff, you know, minor stuff and major
15 stuff.

16 So I really do hope that you all just focus on
17 the evidence. What says that Jake is a dope
18 trafficker or methamphetamine trafficker? What says
19 that? They imply that. They want you to guess
20 that. They haven't proved that. I mean, who is
21 linked to these drugs by anything? By behavior, by
22 testimony? I'm not here to try the State's case for
23 them, that's not what I do, but let's be reasonable
24 here. Who does everything point to? It does not
25 point to Jake.

1 I'm not going to take up any more of your time,
2 just please -- I know you're going to do it -- think
3 it through and use your best judgment. And it's
4 just my sincere hope that you find him not guilty of
5 the things he did not do. And I guess y'all are
6 going to have to convict him on the blue light.
7 Thank you.

8 THE COURT: Mr. Pogue.

9 MR. POGUE: Thank you. He says, let me make
10 sure I get this right, there's no evidence that he
11 possessed the trafficking level of methamphetamine.
12 That's his truck, his truck that he's in. He's
13 riding around with, he says, bags that he picked her
14 up, all day. If you notice what's going on here,
15 there's kind of finger pointing across the desk.
16 Wasn't me, must have been somebody else, hint, hint.
17 No, wasn't me, must have been somebody else, hint,
18 hint.

19 Sounds like strong evidence of joint
20 possession, that's what the State would suggest.
21 Who was the one that was acting funny and erratic?
22 I don't know about you, but I feel like the behavior
23 of driving that vehicle all over that road and not
24 only crashing it into the woods after you've
25 endangered all those lives, then running out of the

1 truck, over the barbed wire fence and hiding in a
2 drainage culvert, I believe that's pretty erratic.
3 You have to make that assessment for yourself.

4 He kept bringing up 47 days, 47 days as if for
5 some way that the defendant, Jake Fredrickson, would
6 have known what he would get for a sentence for a
7 potential crime of driving under suspension that he
8 admitted he knew he was suspended, but did it
9 anyway.

10 And then I asked him if you recall, when you
11 broke into the house, why didn't you just call the
12 police? Well, I don't like to call the police. You
13 have to decide if you find that credible or not. If
14 you do find it credible, why it is that he didn't
15 want to call the police?

16 How do you gain trust of 14 strangers, he says?
17 How I try to gain the trust of 14 strangers is by
18 not insulting their intelligence and by treating you
19 as the respectable, intelligent people I know you to
20 be or I assess you to be, which is why I chose you
21 as jurors or suggested you as jurors when you were
22 presented to me. That's how I attempt to gain
23 people's trust, not by trying to get them to swallow
24 and believe preposterous and irreconcilable stories.
25 Stories for me, anyway, is I'm fine with doing 47

1 days as he kept bringing up if it avoids keeping my
2 mother's car from getting damaged. I ain't doing 47
3 days to risk all those lives and running all over
4 town and crashing my truck that he says into trees
5 and destroy his own truck and then run and try to
6 hide in a drain hole. Tried to offer that as
7 something that's reasonable, a reasonable person
8 would find credible.

9 So again, it's like I told you when I first
10 spoke with you, you have to decide these things
11 beyond a reasonable doubt. The Judge is going to
12 instruct you that we have to find -- excuse me, that
13 you have to believe that we have proven all the
14 elements of the crime to you beyond a reasonable
15 doubt, not beyond all possible doubt. Is it
16 possible that maybe that was true? Well again, I
17 guess anything is possible, but the question is, is
18 it reasonable to a reasonable person, which you all
19 are.

20 The State again would have you -- if you so
21 choose, there would be -- all the evidence will be
22 available to you to review. I encourage you to look
23 through it, all of it. Try to recall the testimony
24 that was presented to you. Watch the videos if you
25 think you need to watch the videos again. Ask

1 yourself if someone was running like that for a DUS,
2 if somebody was driving around in a vehicle.

3 Mr. Sutherland says the testimony was not that
4 that bag was open all day. I asked him and he said
5 that he was riding around in the truck with that bag
6 like that and he said he never looked down to see
7 inside the bag. He couldn't say whether it was open
8 or not because he apparently never looked down at
9 all during the whole time he was riding around in
10 that truck.

11 So again, you assess the evidence, you make
12 those determinations, not me. If you don't believe
13 that the State has put forth the evidence,
14 sufficient evidence to find him guilty of
15 trafficking and burglary as well as Ms. Spurlock for
16 burglary and for trafficking, then it's your duty to
17 go back there and find them not guilty. But if you
18 don't believe that any of the doubts you have are
19 reasonable, then you also have the duty to go back
20 there and find him guilty on the charges.

21 I believe that the evidence is overwhelming and
22 the State would ask that you go back to the jury
23 room and deliberate and find both defendants guilty
24 of the charges for which they have been on trial,
25 trafficking, burglary, and failure to stop for a

1 blue light. Thank you for your time and attention,
2 all of you.

3 THE COURT: Thank you, Mr. Pogue.
4 Mr. Story.

5 MR. STORY: May it please the Court?

6 THE COURT: Yes, sir.

7 MR. STORY: Members of the jury, I'm all that
8 stands between you and lunch and being done with
9 this trial, so I will be as brief as I can. I do
10 have a good number of things to go over, though.
11 Kelsay didn't run. That was the first thing I told
12 y'all about this case. As y'all can see, it is
13 important.

14 You heard Officer Watkins when he came up
15 behind the truck, Kelsay Spurlock was not driving.
16 She didn't take police on that long chase. When he
17 came up to the truck after he crashed into some
18 trees, Kelsay Spurlock was remaining in the car.
19 Remember, Chief Watkins' testimony that he saw
20 somebody bush bond. Remember what he called over
21 the radio, one bush bond. That's because Kelsay
22 Spurlock remained in the car.

23 And then officers ordered her out. Was she
24 acting erratic? Was she swaying? Was she scared?
25 Absolutely. She had just been on a high speed

1 chase. She was a passenger in a high speed chase
2 all over the Gaston area of Lexington County,
3 driving, as Chief Watkins estimated, between 75 and
4 90 miles per hour going in the wrong direction
5 driving on a dirt road. As we've all been on dirt
6 roads and sometimes the dirt roads in the country
7 can get rough. Even Jake Fredrickson said, it was a
8 pretty rough ride. And then, of course, it came to
9 a stop because he crashed into some trees. Of
10 course she was scared.

11 The other thing I told y'all at the beginning
12 of this trial is that there was going to be zero
13 evidence linking Kelsay Spurlock to those drugs and
14 the State would want you to find her guilty simply
15 because she was a passenger in a truck when the
16 drugs were found. I think y'all can see that's
17 true. There's no evidence whatsoever of any
18 identification. There was no fingerprints. There
19 was no DNA. There was no physical evidence
20 whatsoever. Obviously, that would have told us a
21 lot. Had there been, it could have told us who
22 potentially handled that? It wasn't presented.

23

24 The State lawyer told y'all at the beginning
25 and told y'all again to use your common sense and I

1 want y'all to do just that: Use your experiences
2 and your common sense when y'all are evaluating the
3 State's case. What do people typically do if they
4 have drugs and police are closing in? They run.
5 Kelsay Spurlock did not run. That's been obvious.

6 What would a person who normally does something
7 -- if a person knows they're on a high speed chase
8 and the police are coming, it would make sense that
9 they would throw it out the window, get rid of it.
10 And yet, the officer's testimony was that the drugs
11 remained in the car. They found the drugs in the
12 car and in plain view. And it doesn't make sense
13 that you're riding around with drugs and you don't
14 try to conceal them or don't try to run if you know
15 about it.

16 The State also wants you to believe the
17 testimony of all the witnesses, that Kelsay Spurlock
18 had been evicted and she didn't belong in the house.
19 I told y'all at the very beginning in opening, she
20 shouldn't have gone to the house, didn't have
21 permission to be there, but there was no evidence,
22 there was going to be no evidence of intent to
23 commit a crime.

24 And the Judge is going to charge you on
25 burglary that only one of the elements is entering

1 without permission. They also must have the intent
2 to commit a crime when they enter. The State has
3 presented no evidence that anything was taken, any
4 belongings of another was taken. They presented no
5 evidence of any crime that was intended in that
6 building.

7 Again, I ask you again just as the government's
8 lawyer did to use your common in this case. Does it
9 make sense that a person who was behind on their
10 rent, who had been evicted to be riding around with
11 what their officer testified was somewhere between
12 800 and \$3,000 worth of drugs? A person that
13 there's been testimony shown did not have a ride.
14 Y'all heard Jake Fredrickson admit the truck wasn't
15 his.

16 It makes no sense, folks. It makes no sense
17 that a drug dealer would run around, be a passenger
18 in this high speed chase, not try to get rid of the
19 drugs and not take off running if law enforcement is
20 closing in and they know about drugs there.

21 Okay. So enough about what we don't know and
22 what makes sense. Let's focus a little more on what
23 we do know and what your eyes and ears and what
24 y'all have seen. Y'all saw the video of the chase
25 that was going all over Lexington County on those

1 bumpy dirt roads, reaching speeds of 75 to 90 miles
2 per hour, driving all over the place, at one point,
3 going through a field. Officer Watkins loses sight
4 of them at one point. And finally, crashes into
5 some trees. And we see this from direct, from the
6 dash cam, body cam, circumstantial evidence.

7 Y'all heard Officer Contreras say he tried to
8 back it out. It was lodged in those trees pretty
9 hard, which would indicate he was going at a high
10 rate of speed. We know that. And we also know that
11 Jake Fredrickson ran and was hiding in a drainage
12 pipe.

13 What else do we have? We have pictures from
14 the car. A picture says a thousand words. Let's
15 take a look at this photo. Officer Contreras
16 testified that he tried to back it out and he saw
17 the drugs in plain view. Again, I submit to you it
18 doesn't make sense that somebody wouldn't try to get
19 rid of them if they knew about the drugs. So they
20 were just sitting there in this bag.

21 Remember I pointed out this logo, the person on
22 the bicycle and the star. And y'all are going to
23 have this photo in the back with you. It's a little
24 difficult to see, but I submit to you that there was
25 another similar bag on the driver's side.

1 There's another thing about this photo, Kelsay
2 Spurlock, as y'all can see from the body cam, was
3 taken from the passenger's side. It -- there's no
4 way based on that failure to stop video going
5 through where all that stuff was that this is the
6 way it looked. Again, I asked the officer, the
7 cigarette pack, it looks like it was not crushed.
8 It doesn't look like anybody was sitting on it. It
9 looks like these things had been moved. And, of
10 course, we know -- you know based on your experience
11 that's not the way it looked during that entire
12 chase, going up and down all those bumpy dirt roads
13 and going through fields at high rates of speed and
14 then finally crashing into those trees.

15 What's possible? Y'all can see, as I pointed
16 out to Officer Watkins, the glove box is open and
17 the bag where the drugs were found is right below
18 that. So it's possible, based on all the evidence,
19 drugs were in the glove box and as it was going all
20 over the place, as things were being moved around,
21 flying around, it finally came to a crash, the drugs
22 may have fallen out of the glove box. Certainly
23 possible. Or it could have been somewhere else and
24 during that long chase, as everything was moving
25 around, flying around, they fell out of somewhere.

1 We can certainly assume that it did not look like
2 that during the entire event.

3 I want y'all to think about all that as you're
4 going through the evidence and I want you to
5 remember common sense and remember Kelsay Spurlock
6 did not run, complied with the officers. And I want
7 you to find her not guilty of both burglary and
8 trafficking. Thank you.

9 THE COURT: All right. Thank you.

10 Ladies and gentlemen of the jury, Mr. Foreman,
11 can y'all bear with me 20 minutes so I can charge
12 you the law?

13 THE FOREMAN: Yes, ma'am.

14 THE COURT: Then I'll let you go enjoy your
15 lunch.

16 All right. I will now charge you on the law
17 applicable to this case. You must consider the
18 charge as a whole and not focus on some portions to
19 the exclusion of others. The indictments charge the
20 defendants with trafficking methamphetamine,
21 burglary -- it's going to be third degree.
22 Originally, when we started, ladies and gentlemen,
23 it was second degree. The Court has determined as a
24 matter of law that the building in this case is not
25 considered a dwelling. As a result of that

1 determination and as a matter of law, the law
2 charged in this case will be for third degree
3 burglary and not second degree burglary.

4 And additionally, Defendant Fredrickson is
5 charged with failure to stop for a blue light.

6 I remind you that the fact that a defendant was
7 arrested, charged, and indicted in this case is not
8 evidence in this case and cannot be considered by
9 you as evidence of guilt in this case, nor does it
10 create any presumption or inference of guilt. These
11 documents are simply the formal written instruments
12 which contain the charges made against a defendant.
13 These are the formal documents by which this case is
14 brought into this court.

15 The indictments in this case allege five
16 different offenses against the defendants. The
17 charges on Kelsay Spurlock is trafficking
18 methamphetamine. Also, she's charged with burglary,
19 going to be third degree. Mr. Fredrickson is
20 charged with trafficking meth, burglary third degree
21 and failure to stop for blue light.

22 Each indictment charges a separate and distinct
23 offense. You must decide each assignment separately
24 on the evidence and the law applicable to it
25 uninfluenced by your decision as to any other

1 indictment. A defendant may be convicted or
2 acquitted on any or all of the offenses charged.
3 You will be asked to write a separate verdict of
4 guilty or not guilty for each indictment.

5 The defendants have pled not guilty to these
6 indictments and that plea puts the burden on the
7 State to prove the defendants guilty. A person
8 charged with committing a criminal offense in South
9 Carolina is never required to prove himself or
10 herself innocent. I charge you that it is an
11 important rule of law that a defendant in a criminal
12 trial, no matter what the seriousness of the charge
13 may be will always be presumed to be innocent of the
14 crime for which the indictment was issued unless
15 guilt has been proven by evidence satisfying you of
16 that guilt beyond a reasonable doubt.

17 This presumption of innocence does not end when
18 you begin your deliberations, but it accompanies a
19 defendant throughout the trial unless you reach a
20 verdict of guilty beyond -- based on evidence
21 satisfying you of that guilt beyond a reasonable
22 doubt.

23 The presumption of innocence is like a robe of
24 righteousness placed about the shoulders of a
25 defendant which remains with the defendant unless it

1 has been stripped from a defendant by evidence
2 satisfying you of the defendant's guilt beyond a
3 reasonable doubt. The presumption of innocence is
4 not a mere legal theory. It is not just a legal
5 phrase. It is a substantive right to which every
6 defendant is entitled unless you, the jury, are
7 satisfied by the evidence of a defendant's guilt
8 beyond a reasonable doubt.

9 I instruct you and emphasize that the fact a
10 defendant did not testify is not a factor to be
11 considered by you in any way in your deliberation
12 and in your consideration on the question of guilt
13 or innocence of a defendant. It must not be
14 considered by you in any manner whatsoever. A
15 defendant has the constitutional right to remain
16 silent and the assertion of this right must not be
17 considered by you in your deliberations. I repeat,
18 under your oath, you are to draw no conclusion
19 whatsoever from the fact that a defendant in this
20 case did not testify. The fact that a defendant did
21 not testify should not even be discussed in the jury
22 room.

23 The burden of proof, as I have stated to you,
24 is on the State. A defendant is not required to
25 prove his or her innocence. The burden of proof

1 remains on the State to prove guilt beyond a
2 reasonable doubt.

3 The State has the burden of proving the
4 defendants guilty beyond a reasonable doubt. Some
5 of you may have served as jurors in civil cases
6 where you were told it was only necessary to prove
7 that a fact is more likely true than not true, such
8 as by the greater weight or what we call
9 preponderance of the evidence. In criminal cases,
10 the State's proof must be more powerful than that.
11 It must be beyond a reasonable doubt.

12 Proof beyond a reasonable doubt is proof that
13 leaves you firmly convinced of the defendant's
14 guilt. There are very few things in this world that
15 we know with absolute certainty and in criminal
16 cases, the law does not require proof that overcomes
17 every possible doubt. If based on your
18 consideration of the evidence, you are firmly
19 convinced that a defendant is guilty of the crime
20 charged, then you must find that defendant not
21 guilty. If on the other hand, you think there's a
22 real possibility that the defendant is not guilty,
23 you must give the defendant the benefit of the doubt
24 and find him not guilty.

25 I remind you that during this trial, you and I

1 have certain duties to perform. As the trial Judge,
2 it is my responsibility to preside over the trial of
3 this case and I also have the duty to rule on the
4 admissibility of evidence offered during this trial.
5 You are to consider only the competent evidence
6 before you. If there was any testimony ordered
7 stricken from the record in this case during this
8 trial, you must disregard that testimony. I did
9 strike things from the record in this case. And it
10 should be -- you need to disregard it.

11 You are to consider only the testimony which
12 has been presented from the witness stand, any
13 exhibits which have been made part of the record in
14 this case and any stipulations of counsel.

15 I have the additional duty to charge you the
16 law applicable to this case. As the presiding
17 judge, I am the sole judge of the law in this case
18 and it is your duty as jurors to accept and apply
19 the law as I state it to you. If you already have
20 an idea of what the law is or what the law ought to
21 be and it does not agree with what I now tell you
22 what the law is, you must abandon this idea because
23 you are sworn to accept the law and apply the law
24 exactly as I state it to you.

25 In every case tried in this court before a

1 jury, the jury becomes the sole and exclusive judge
2 of the facts in a case. A trial judge cannot
3 intimidate, state, comment on or make any statement
4 to a trial jury about the facts in this case. Since
5 you, the jury, are the sole judge of the facts in
6 this case, you are not to infer from what I've said
7 during the progress of this trial in ruling on the
8 admissibility of evidence or otherwise or anything
9 that I say now during the course of this instruction
10 to you that I have any opinion about the facts in
11 this case. The law does not allow me to have an
12 opinion about the facts in this case. This is a
13 matter solely for you, the jury, to determine. As
14 jurors, it is your duty to determine the effect,
15 value, weight of the evidence presented during the
16 trial.

17 Now, there are two types of evidence which are
18 generally presented during a trial: Direct evidence
19 and circumstantial evidence. Direct evidence
20 directly proves the existence of a fact and does not
21 require deduction. Circumstantial evidence is proof
22 of a chain of facts and circumstances indicating the
23 existence of a fact. Crimes may be proven by
24 circumstantial evidence. The law makes no
25 distinction between the weight or value to be given

1 to either direct or circumstantial evidence.

2 However, to the extent the State relies on
3 circumstantial evidence, the circumstances must be
4 consistent with each other and when taken together
5 point conclusively to the guilt of the accused
6 beyond a reasonable doubt. If these circumstances
7 merely portray the defendant's behavior as
8 suspicious, the proof has failed. The State has the
9 burden of proving the defendants guilty beyond a
10 reasonable doubt. The burden rests with the State
11 regardless of whether the State relies on direct
12 evidence, circumstantial evidence, or some
13 combination of the two.

14 You must also determine the credibility of
15 witnesses who have testified in this case and the
16 evidence presented. Credibility simply means
17 believability. It becomes your duty as jurors to
18 analyze and to evaluate the witnesses and the
19 evidence and determine the credibility of the
20 witnesses and the evidence.

21 In determining the credibility of witnesses who
22 have testified in this case, you may believe one
23 witness over several witnesses or several witnesses
24 over one witness. You may believe a part of the
25 testimony of a witness and reject the remaining part

1 of the testimony of that same witness. You may
2 believe the testimony of a witness in its entirety,
3 or reject the testimony of a witness in its
4 entirety. You may consider whether any witness has
5 exhibited to you any interest, bias, prejudice, or
6 other motive in this case. You may also consider
7 the appearance and manner of a witness while on the
8 witness stand.

9 The rules of evidence ordinarily do not permit
10 witnesses to testify to opinions or conclusions. An
11 exemption to this rule exists for witnesses we call
12 expert witnesses. If you remember correctly we had
13 two witnesses declared expert witnesses in this
14 case. A witness who be education and experience has
15 become an expert in some art, science, profession or
16 calling may state an opinion as to relevant and
17 material matter in which the witness claims to be an
18 expert and may also state the reasons for the
19 opinion.

20 You should consider any expert opinion received
21 in evidence in this case and like any other evidence
22 give it the weight you think it deserves. You
23 decide that the opinion of an expert witness -- if
24 you decide that the opinion of an expert is not
25 based on sufficient education and experience or if

1 you conclude that the reasons given in support of
2 the opinion are not sound or that the opinion is
3 outweighed by other evidence, you may disregard the
4 opinion entirely. An expert witness's testimony is
5 to be given no greater weight than that of other
6 witnesses simply because the witness is an expert.
7 Further, you are not required to accept an expert's
8 opinion even though it is not contradicted.

9 In order to establish criminal liability,
10 criminal intent is required. For example, the
11 mental state required to be proven by the State for
12 a particular crime might be purpose, intent,
13 knowledge, recklessness or criminal negligence.
14 Criminal intent must be proven by the State beyond a
15 reasonable doubt.

16 Criminal intent is always a matter that must be
17 determined by the jury from the circumstances
18 surrounding the situation. There is no way to prove
19 intent to a mathematical certainty. There is no way
20 medical science can dissect a person's brain and
21 determine what that person had in mind. So the law
22 says that criminal intent may be inferred from the
23 circumstances shown to have existed. This is how
24 you make a determination of whether or not the
25 element requiring intent was present.

1 It is not necessary to establish intent by
2 direct and positive evidence. But intent may also
3 be established by inference in the same way as any
4 other fact by taking into consideration the acts of
5 the parties and all the facts and circumstances of
6 the case.

7 Criminal intent is a mental state. A conscious
8 wrongdoing. It is up to you to determine what the
9 defendant intended or -- or defendants intended to
10 do based on the circumstances shown to have existed.
11 Criminal intent can arise from action or failure to
12 act. It may arise from negligence, recklessness or
13 an indifference to duty or consequences that is
14 considered by the law to be the equivalent of
15 criminal intent.

16 I charge you there are two defendants in this
17 case, each of whom is charged with trafficking meth
18 28 to 100 grams, burglary third, and burglary third.
19 In addition, Mr. Fredrickson is also charged with
20 failure to stop for a blue light.

21 The case of each defendant and the evidence and
22 the law concerning that defendant should be
23 considered separately and individually. Your
24 verdict does not have to be the same for both
25 defendants. The fact that you may find one

1 defendant guilty or not guilty should not control
2 your verdict as to the other defendant. Where more
3 than one person is charged with a crime, if the
4 evidence warrants it, you may acquit one and convict
5 the other, or you may acquit both or you may convict
6 both. It will depend upon your view of the
7 testimony and the evidence. You must take each
8 defendant and consider the evidence as to that
9 defendant and my instructions to you on the law.
10 You will then write a separate verdict of guilty or
11 not guilty for each individual defendant.

12 The defendants are charged with trafficking in
13 methamphetamine. The State must prove beyond a
14 reasonable doubt that the defendants knowingly sold,
15 manufactured, cultivated, delivered, purchased,
16 brought into the state, provided financial
17 assistance or otherwise aided, abetted, attempted or
18 conspired to sell, manufacture, cultivate, deliver,
19 purchase or bring into this state, or is knowingly
20 in actual or constructive possession or knowingly
21 attempted to become in actual or constructive
22 possession of the methamphetamine.

23 Actual possession means that the
24 methamphetamine was in the actual physical custody
25 of the defendants. Proof of constructive possession

1 means the State must prove that the defendant had
2 the right and power to exercise control over the
3 drugs. The State must also prove the defendants had
4 knowledge of the drugs and the intent to control the
5 disposition of those drugs. The State must also
6 prove beyond a reasonable doubt that the amount of
7 methamphetamine was 28 grams or more, but less than
8 100 grams. Mere presence at the scene where the
9 drugs were found is not enough to prove possession,
10 but two or more persons may have joint possession of
11 a drug.

12 If you find that the State has failed to prove
13 beyond a reasonable doubt that the defendants are
14 guilty of trafficking 28 to 100 grams of
15 methamphetamine, you may consider whether the State
16 has proved beyond a reasonable doubt that the
17 defendants are guilty of simple possession of
18 methamphetamine.

19 The State must prove beyond a reasonable doubt
20 that the defendants knowingly and intentionally
21 possessed methamphetamine. Knowingly means with
22 knowledge, consciously, not accidentally.
23 Intentionally means willfully, intending the result
24 which actually occurs, not accidentally or
25 involuntary. Intent may be shown by acts and

1 conduct of the defendant and other circumstances
2 from which you may naturally and reasonably infer
3 intent. To prove possession, the State must prove
4 beyond a reasonable doubt that the defendants had
5 both the power and the intent to control the
6 disposition or use of the methamphetamine.

7 Possession may be either actual or
8 constructive. Actual possession means the
9 methamphetamine was in the actual physical custody
10 of the defendants. Constructive possession means
11 that the defendants had dominion and control or the
12 right to exercise dominion or control over either
13 the methamphetamine itself or the property on which
14 the methamphetamine was found.

15 Mere presence at the scene where the drugs were
16 found is not enough to prove possession. However,
17 this inference is simply an evidentiary fact to be
18 taken into consideration by you, along with the
19 other evidence in the case and to be given the
20 weight you decide it should it have. Two or more
21 persons may have joint possession of a drug.

22 In order to prove third degree burglary, the
23 State must prove beyond a reasonable doubt that the
24 defendants entered a building without consent. A
25 building is any structure, vehicle, watercraft or

1 aircraft where any person lodges or lives or where
2 people assemble for the purpose of business,
3 government, education, religion, entertainment,
4 public transportation, public use or where goods are
5 stored.

6 In order to prove that the defendants entered
7 the building, the State does not have to show that
8 the defendants' entire body entered the building.
9 The smallest entry is sufficient. It may be any
10 part of the body, such as a hand or a foot or even
11 an instrument, such as a hook, or any other
12 instrument.

13 In addition, the State does not have to prove
14 that force was used to gain entry. If a person
15 enters a building by using deception, artifice,
16 trick or misrepresentation to get consent to enter,
17 this is entry without consent.

18 Next, the State must prove beyond a reasonable
19 doubt that the defendants intended to commit a
20 crime, either a felony or a misdemeanor, at the time
21 of the entry to be guilty of burglary. The mere
22 entry into a building without consent is not
23 burglary. If the intent to commit a crime is formed
24 after the entry, it is not burglary. On the other
25 hand, if the defendants intended to commit a crime

1 at the time of the entry, it is burglary, even if
2 the intent was abandoned after the entry. It does
3 not matter that the intended crime was not
4 completed. Intent may be shown by acts and conduct
5 of the defendants and other circumstances from which
6 you may naturally and reasonably infer intent.

7 The defendant, Jake Fredrickson, is charged
8 with failing to stop for a blue light. In order to
9 prove this crime, the State must prove beyond a
10 reasonable doubt that the defendant was driving a
11 motor vehicle; that the defendant was driving a
12 motor vehicle on a road, street or highway of this
13 state; that the defendant was signaled to stop by
14 law enforcement by means of a siren or flashing
15 light; and that the defendant did not stop.

16 In determining whether or not there were
17 mitigating circumstances which would justify the
18 defendant's failure to stop for a blue light, you
19 may consider actual road conditions, actual roadside
20 conditions, other conditions such as lighting,
21 weather, officer, driver and/or passenger safety and
22 any other circumstances you believe to reasonably
23 mitigate the alleged violation. An official signal
24 requiring a motorist to stop may be a siren or
25 flashing lights, but both are not required.

1 An attempt to increase the speed of a vehicle
2 or in some other manner avoid the pursuing the law
3 enforcement vehicle when signaled by a siren or
4 flashing light may be considered as evidence of
5 failure to stop for a blue light. However, it is
6 merely an evidentiary fact to be taken into
7 consideration by you along with all the other
8 evidence in the case and to be given the weight that
9 you decide it should receive.

10 I will give you a copy of these instructions in
11 written form during your deliberations. You may
12 refer to the instructions to guide your
13 decision-making. You must consider the instructions
14 as a whole and not follow some and ignore others.

15 I'll ask the foreman if you would please return
16 the copy of the instructions to the bailiff at the
17 time your verdict is rendered.

18 There are two possible verdicts for each charge
19 which you may find in this case. There's no
20 significance whatsoever in the order in which I
21 state these possible verdicts. It is simply that
22 one must be stated first. Ladies and gentlemen,
23 your verdict must be unanimous as to each charge.

24 Mr. Foreman, when the jury agrees on the
25 verdict, you will initial on the line next to the

1 verdict on the verdict form for each charge and sign
2 your name as foreperson and then inform the bailiff
3 that you have reached a verdict. At that time, I'll
4 receive you back into the courtroom.

5 I'm going to ask you now to return to the jury
6 room, but do not begin deliberations until you are
7 told by either one of the clerks or bailiffs to do
8 so. There are matters which must be discussed with
9 the attorneys before you begin your deliberations.

10 In the event, Mr. Foreman, that your
11 deliberations -- there is a split in the vote, the
12 Court does not at any time want to be informed of
13 the actual split in the number in the vote if one
14 exists.

15 So let me say something about your
16 deliberations. Deliberation is defined as careful
17 consideration weighing up with a view to decision.
18 The genesis of our jury system is that it allows 12
19 different men and women from 12 different
20 backgrounds, life experiences and perspectives to
21 consider the evidence, talk about it, and ultimately
22 reach a verdict.

23 We call them deliberations for a reason. You
24 are to consider the evidence in this case carefully
25 and deliberately and discuss it in a calm, thorough,

1 and courteous manner. Remember you are not
2 partisans or advocates for either side favoring one
3 side over the other. You are the judges, judges of
4 the facts. Listen to the views of all your fellow
5 jurors. Consider other people's points and points
6 of view and talk through and discuss the evidence.

7 And remember, if you are doing something
8 deliberately, you are not in a big hurry and you
9 should not be in a hurry here. This is a very
10 important case to both sides and this is their only
11 day in court.

12 When you retire to the jury room, you should
13 discuss the case with your fellow jurors to reach an
14 agreement if you can do so. Your verdict must be
15 unanimous. Each of you must decide the case for
16 yourself, but you should do so only after you have
17 impartially considered all of the evidence,
18 discussed it fully with the other jurors and
19 listened to the views of your fellow jurors. Do not
20 be afraid to change your opinion if the discussion
21 persuades you that you should, but do not come to a
22 decision simply because other jurors think it is
23 right. It is important that you attempt to reach a
24 unanimous verdict, but, of course, only if each of
25 you can do so after having made your own decision.

1 Do not change an honest belief about the weight and
2 effect of the evidence simply to reach a verdict.
3 In other words, do not change your opinion solely
4 for the sake of reaching a unanimous verdict.

5 I'm going to ask that you now return to your
6 jury room, but do not begin deliberations -- you do
7 have lunch waiting on you -- until you're told by
8 the clerk or bailiff.

9 That is because, I'm going to tell you,
10 Mr. Foreman, we're going to bring back all the
11 evidence that was presented in this case for y'all's
12 review. I will tell you when you are deliberating,
13 it must be all 12 in the room. Somebody leaves to
14 go to the restroom, you wait on them. Everybody
15 must be present when you discuss and decide and vote
16 on this case. Okay?

17 THE FOREMAN: Yes, ma'am.

18 THE COURT: I am going to take the alternate
19 out, so if I could get the bailiffs to set him
20 aside.

21 I'm going to come talk to you before you leave.

22 I'm going to ask you to go back now. Remember,
23 no discussion about this case until we come back and
24 let you know, okay? I'll send back a copy of the
25 jury charges and the verdict form. All right?

1 Thank you.

2 (The jury exits the courtroom at 1:54 PM.)

3 THE COURT: All right. Anything on the jury
4 instructions, Mr. Pogue?

5 MR. POGUE: Your Honor, nothing of
6 significance. It looks like the language after the
7 permissible inference that used to be in the charge
8 was left in there. You mentioned inference, but the
9 inference was not stated by you, so I think it's
10 fine.

11 THE COURT: Mr. Sutherland?

12 MR. SUTHERLAND: Nothing, Your Honor, good to
13 go.

14 THE COURT: Mr. Story?

15 MR. STORY: No.

16 THE COURT: Yes, I saw that, too.

17 MR. POGUE: It's our fault, Your Honor, because
18 there's been multiple edits in the last couple of
19 hours. That's completely understandable. The
20 relevant part was not in there, so --

21 THE COURT: Right. Right. I want to make sure
22 before it goes back there. I don't want the jury to
23 read that and get some kind of.

24 MR. POGUE: I wanted to delete the portion of
25 it --

1 THE COURT: We did, and I changed everything
2 from the second to the third. I was sitting here as
3 I was reading making changes.

4 Matter of fact, before I send it back, y'all
5 want to look over it just one more time before I
6 send it back? I think all we have is the State's 19
7 exhibits to go back.

8 MR. POGUE: Except for No. 1 was not admitted
9 into evidence.

10 THE COURT: Yes, it was ID only.

11 Anything else from the lawyers before I take a
12 quick break?

13 (The jury begins deliberations at 2:01 PM.)

14 (Court's Exhibit No. 1 marked for
15 identification.)

16 THE COURT: All right. Note from the jury. We
17 are stuck on two charges on one defendant. Everyone
18 is confident in their choices. How do we proceed
19 and mark a split?

20 I'm going to bring them in, give them an Allen
21 charge and send them back out. I'm going to make
22 this Court's Exhibit No. 2.

23 (Court's Exhibit No. 2 marked for
24 identification purposes.)

25 THE COURT: Bring the jury in.

1 (The jury enters the courtroom at 5:37 PM.)

2 THE COURT: All right. Mr. Foreman, I received
3 your note that y'all are stuck on one defendant.

4 THE FOREMAN: Yes, ma'am.

5 THE COURT: So let me say this to you: You've
6 stated you've been unable to agree on a verdict in
7 this case. As I instructed you earlier, the verdict
8 of the jury must be unanimous. When a matter is in
9 dispute, it isn't always easy for even two people to
10 agree. So when 12 people must agree, it becomes
11 even more difficult.

12 In most cases, absolute certainty cannot be
13 reached or expected. However, you have a duty to
14 make every reasonable effort to reach a unanimous
15 verdict. In doing this, you should consult with one
16 another, express your own views and listen to the
17 opinions of your fellow jurors. Tell each other how
18 you feel and why you feel that way. Discuss your
19 differences with open minds.

20 Although the verdict of the jury must be
21 unanimous, every one of you has a right to your own
22 opinion. The verdict you agree to must be your own
23 verdict, the result of your own convictions and you
24 should not give up your firmly held beliefs merely to
25 be in agreement with your fellow jurors. The

1 majority should consider the minority's position and
2 the minority should consider the majority's
3 position. You should carefully consider and respect
4 the opinions of each other and reevaluate your
5 positions for reasonableness, correctness and
6 impartiality. You must lay aside all outside
7 matters and reexamine the questions before based on
8 the law and evidence in this case.

9 If you do not agree on a verdict in this case,
10 I must declare a mistrial. In that case, it does
11 not mean that anybody wins, it just means that at
12 some future time, I will try this case with some
13 other jury sitting right where you sit now. The
14 same participants will come. The same lawyers will,
15 basically, ask the same questions and get,
16 basically, the same answers and we will go through
17 the whole process again. You were selected in the
18 same manner and from the same source as any future
19 jury will be. And there is no reason for me to
20 suppose that the case will ever be submitted to 12
21 more intelligent, impartial, conscientious and
22 competent jurors than you or that more clearer
23 evidence will be produced on one side or the other.

24 Therefore, I ask you to return to your
25 deliberations with the hope that you can arrive at a

1 verdict within a reasonable time.

2 If you can't do it, Mr. Foreman, send me a note
3 like you did.

4 THE FOREMAN: Yes, ma'am.

5 THE COURT: Thank you. You can go back to your
6 jury rooms.

7 (The jury exits the courtroom at 5:41 PM.)

8 THE COURT: Anything from the State?

9 MR. POGUE: No, Your Honor.

10 THE COURT: Anything, Mr. Sutherland?

11 MR. SUTHERLAND: No, ma'am. It's got to be
12 Jake. There are two charges on one of the
13 defendants. He confessed to the failure to stop.
14 I'm about to pass out, just figuratively.

15 THE COURT: It will be okay.

16 How about it, Mr. Story, you got anything?

17 MR. STORY: Nothing, Your Honor.

18 THE COURT: All right. We'll be in recess.

19 (Court's Exhibit No. 3 marked for
20 identification.)

21 (Court in recess awaiting a verdict.)

22 THE COURT: This is a note from the jury: We
23 are still at an impasse. We have discussed the
24 items you have charged us with, with consideration
25 of the opposite point of view with no change.

1 So I want to make this Court's Exhibit 4. I
2 say bring them in, see what they have reached and go
3 from there.

4 (Court's Exhibit No. 4 marked for
5 identification purposes.)

6 THE COURT: Now, let me put one more thing on
7 the record. When I sent the jury out, it was
8 brought to my attention that one of the jurors was
9 taking notes. I never saw it. Anyway, I consulted
10 the lawyers. I ended up just sending the bailiff in
11 to collect any notes that were written. I made them
12 part of the Court's Exhibit. I wasn't going to draw
13 any attention to it because while I usually don't
14 allow note taking, I didn't tell them that. This
15 was a weird jury we picked earlier in the week when
16 we brought them in on Wednesday. I didn't tell them
17 they could not take notes, so they didn't do
18 anything wrong. I just wanted to pick the notes up.

19 And I think, Mr. Sutherland, you wanted the
20 notes picked up and I did and I've made that part of
21 the record. This will be Exhibit No. 5.

22 Is there anything else I need to put on the
23 record?

24 (Court's Exhibit No. 5 marked for
25 identification purposes.)

1 MR. POGUE: Nothing from the State, Your Honor.

2 MR. SUTHERLAND: No, Your Honor.

3 MR. STORY: No, Your Honor.

4 THE COURT: Bring them in.

5 (The jury enters the courtroom at 6:50 PM.)

6 THE COURT: Mr. Foreman, let me ask, you did
7 come to some verdict, it was just a couple of things
8 y'all could not unanimously agree on?

9 THE FOREMAN: Yes, ma'am.

10 THE COURT: All right. He's going to go get
11 the verdict form because I need it.

12 THE FOREMAN: Okay.

13 THE COURT: All right. Let me get the clerk to
14 publish the verdict.

15 If the defendants will please rise. Both
16 defendants.

17 THE CLERK: On the State versus Kelsay Nicole
18 Spurlock, indictment No. 2021-GS-32-02612, we, the
19 jury, in the above captioned case, on the charge of
20 trafficking methamphetamine unanimously find Kelsay
21 Nicole Spurlock guilty.

22 THE COURT: You've got to read the second page.

23 THE CLERK: We, the jury, in the above
24 captioned case on the charge of third degree
25 burglary unanimously find Kelsay Nicole Spurlock

1 guilty.

2 On the State versus Jake Robert Fredrickson,
3 indictment 2021-GS-32-01377, indictment
4 2021-GS-32-02977, indictment 2021-GS32-02980, we,
5 the jury, in the above captioned case on the charge
6 of trafficking methamphetamine unanimously find the
7 Jake Robert Fredrickson not guilty.

8 We, the jury, in the above captioned case on
9 the charge failure to stop for a blue light with no
10 injury or death unanimously find Jake Robert
11 Fredrickson guilty.

12 THE COURT: It had to be the burglary that is
13 going to be declared a mistrial.

14 MR. SUTHERLAND: Yes, ma'am.

15 THE COURT: Okay. On Mr. Fredrickson.

16 All right. Would anybody like the jury polled?

17 MR. STORY: Yes, Your Honor, I would.

18 THE COURT: Okay. I'm going to ask the clerk
19 to poll the jury, please.

20 THE CLERK: As I call your juror number, if you
21 will hold up your hand. I will ask you was this
22 verdict, is it still your verdict, at which time, I
23 will need you to respond.

24 Juror No. 168, is this your verdict and is it
25 still your verdict?

1 THE JUROR: Yes, ma'am.

2 THE CLERK: Juror No. 28 -- Juror No. 174, is
3 this your verdict and is it still your verdict?

4 THE JUROR: Yes.

5 THE CLERK: Juror No. 127, is this your verdict
6 and still your verdict?

7 THE JUROR: Yes.

8 THE CLERK: Juror No. 232, is this your verdict
9 and still your verdict?

10 THE JUROR: (Nods head.)

11 THE CLERK: Juror No. 9, is this your verdict
12 and still your verdict?

13 THE JUROR: Yes.

14 THE CLERK: Juror No. 254, is this your verdict
15 and still your verdict?

16 THE JUROR: Yes, ma'am.

17 THE CLERK: Juror No. 50, is this your verdict
18 and still your verdict?

19 THE JUROR: Yes.

20 THE CLERK: Juror No. 38, is this your verdict
21 and still your verdict?

22 THE JUROR: Yes.

23 THE CLERK: Juror No. 155, is this your verdict
24 and still your verdict?

25 THE JUROR: Yes.

1 THE COURT: Juror No. 206, is this your verdict
2 and still your verdict?

3 THE JUROR: Yes.

4 THE CLERK: Juror No. 202, is this your verdict
5 and still your verdict?

6 THE JUROR: Yes.

7 THE CLERK: Is there any juror number that I
8 did not call?

9 Juror No. 219, is this your verdict and still
10 your verdict?

11 THE JUROR: Yes.

12 THE CLERK: Thank you.

13 Your Honor, all jurors have been polled.

14 THE COURT: Anything else from the State?

15 MR. POGUE: Your Honor, may we approach just
16 very briefly?

17 THE COURT: Sure.

18 (Sidebar conference.)

19 THE COURT: All right. Ladies and gentlemen of
20 the jury, we thank you for your service. I think
21 y'all paid attention. Y'all were an excellent jury.
22 I know it's late, y'all want to go home. I'm going
23 to ask that you go back down to the jury room and
24 they'll collect your badges. I'm going to come
25 speak to you just for a second. Okay? Thank you.

1 (The jury exits the courtroom at 7:01 PM.)

2 THE COURT: And, Mr. Foreman, I need you to
3 sign some indictments right quick if you don't mind.
4 The clerk will help you out there.

5 Get those signed and I'm going to go down and
6 excuse them if there's no objection to that, then
7 I'll be back for sentencing.

8 (Short recess.)

9 THE COURT: I just had a few jurors who wanted
10 to come watch sentencing.

11 All right. Come on up, Mr. Fredrickson.

12 All right. Mr. Pogue, I'm going to do
13 Mr. Fredrickson on the failure to stop for blue
14 light. You want to -- I'll hear you about
15 sentencing.

16 MR. POGUE: Well, Your Honor, in regard to his
17 prior record, I can go through that for you really
18 quickly. 2011, he had failure to maintain proof of
19 insurance, expired vehicle license and driving
20 without a license; 2012, he had another driving
21 without a license; 2015, he had assault and battery
22 third degree; 2018, he had an unlawful carrying of a
23 weapon; 2019, he has driving under suspension
24 second; and then another driving under suspension
25 second. And Your Honor also knows he has an

1 attempted murder pending in our office. Obviously,
2 we still have to figure out what we're going to do
3 on the disposition of that at the conclusion of this
4 trial.

5 THE COURT: Okay.

6 MR. SUTHERLAND: And if I may, Your Honor, his
7 record is all misdemeanors and that's a self-defense
8 case whenever we do get to it.

9 But significantly, Jake's mama couldn't be here
10 because she was in a car accident the first day that
11 we were up here, but I've been keeping in touch with
12 her. That's how I ended up representing Jake, was
13 knowing her.

14 He's spent 287 days in jail on a three-year
15 misdemeanor, Your Honor, and I'm wondering if the
16 Court might consider a time served sentence, 287
17 days, because, ultimately, that ends up being 20
18 months.

19 THE COURT: Okay. 200 what?

20 MR. SUTHERLAND: 287 days.

21 THE COURT: I'm going to tell you what bothers
22 me about the failure to stop for blue light. I
23 watched it and I was horrified watching it. The
24 jury spoke. But number one, for that chase to go on
25 as long as it did at 3:00 p.m. in the afternoon,

1 through people's yards, through the busiest streets
2 that Gaston has. When I cringed was the school bus;
3 not one, but two. And I hear these officers radio
4 saying hey, slow down and they slowed down. Watch
5 out for maybe children on the side of the road.
6 Horrible, horrible.

7 You're lucky. I think you endangered a lot of
8 people's lives, I do, on that. And I have a tough
9 time even believing that it's all for a DUS as to
10 why you would do that. I just have a tough time
11 believing it, I do. I don't like it. Don't like it
12 at all.

13 Sentence of the Court is three years. I'll
14 give you credit for the 287 days. Good luck to you.

15 MR. POGUE: Thank you, Your Honor.

16 MR. SUTHERLAND: Thank you, Your Honor.

17 Thank everybody for the trial and everything.

18 THE COURT: Absolutely. Thank you. Thank you
19 very much.

20 Ms. Spurlock, come on up.

21 All right. Mr. Pogue, let me hear from you as
22 to sentencing.

23 MR. POGUE: Your Honor, I really wish that
24 Ms. Spurlock had come to talk to us when I asked her
25 to prior to this trial. I feel like the result of

1 this trial is unfortunate for her. Deeply.

2 She has a very minimal record. Her record is
3 in 2011, she had a DUAC; and 2018, she had a driving
4 on the wrong side of the road.

5 Your Honor, the State is not asking for
6 anything more than what the mandatory minimum is in
7 this case.

8 THE COURT: That's all I'm going to give her.

9 I'll be glad to hear from you, Mr. Story, but
10 I'm going to do just that.

11 MR. STORY: Then I have nothing to add, Your
12 Honor.

13 THE COURT: Did she spend any time in jail?

14 MR. STORY: One night and then last night, Your
15 Honor, so two days.

16 THE COURT: I feel like I do have to tell you,
17 Ms. Spurlock, and I'm sure Mr. Story has told you,
18 but a trafficking in meth 28 or more is a strike,
19 it's violent, it's serious and it's 85 percent time.
20 If you get another drug offense, there's a certain
21 combination on these strikes that you could end up
22 doing a life sentence, and I want you to understand
23 that.

24 All right. On the trafficking, mandatory
25 minimum seven to 25, I have to give you the seven.

1 The sentence of the Court is you be committed to the
2 State Department of Corrections for seven years. On
3 the burg, I'll just let it tag along. I'm going to
4 give her two days time served, give her credit for
5 two days. Good luck to you, Ms. Spurlock.

6 -- END OF TRANSCRIPT OF RECORD --

WITNESSES

Gaston Police Department

Stephen A Watkins

Law Enforcement Case #: 19000332

BPP

ARREST WARRANT NUMBER

2019A3221200070

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury

Date:

8/9/21

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2021GS3202612

The State of South Carolina

County of Lexington

COURT OF GENERAL SESSIONS

AUGUST TERM 2021

THE STATE

vs.

Kelsey Nicole Spurlock

CDR #: 0392

Indictment for

**Trafficking Methamphetamine, 28 grams
or more but less than 100 grams**

§ 44-53-0375(C)(2)(a)

S.R. Hubbard III, SOLICITOR

STATE OF SOUTH CAROLINA	)	INDICTMENT FOR
	)	Trafficking Methamphetamine, 28 grams or more
COUNTY OF LEXINGTON	)	but less than 100 grams
	)	
		§ 44-53-0375(C)(2)(a)

At a Court of General Sessions, convened on August 2021, the Grand Jurors of Lexington County present upon their oath:

That **Kelsey Nicole Spurlock** did in Lexington County, South Carolina on or about October 3, 2019, knowingly and intentionally, willfully and unlawfully sell, cultivate, manufacture, deliver, purchase, or bring into this State, or did provide financial assistance or otherwise, aid, abet, attempt, or conspire to sell, manufacture, cultivate, deliver, purchase, or bring into this State, or was knowingly and intentionally in actual or constructive possession of or did knowingly and intentionally attempt to become in actual or constructive possession of Methamphetamine, a controlled substance by definition under provisions of § 44-53-110, et. Seq. Code of Laws of South Carolina (1976), as amended, in a quantity of twenty eight (28) grams or more but less than one hundred (100) grams, in violation of § 44-53-375(C)(2)(a), 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.


 ASSISTANT SOLICITOR

WITNESSES

Gaston Police Department

Stephen A Watkins

Law Enforcement Case #: 19000332

BPP

ARREST WARRANT NUMBER

2019A3221200069

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury

Date: 9-7-21

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2021GS3202981

The State of South Carolina

County of Lexington

COURT OF GENERAL SESSIONS

SEPTEMBER TERM 2021

THE STATE

vs.

Kelsey Nicole Spurlock

CDR #: 0080

Indictment for

Burglary - 2nd Degree

§ 16-11-0312(A)

S.R. Hubbard III, SOLICITOR

STATE OF SOUTH CAROLINA)
)
COUNTY OF LEXINGTON)
)

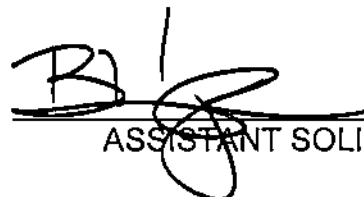
INDICTMENT FOR
Burglary - 2nd Degree

§ 16-11-0312(A)

At a Court of General Sessions, convened on September 2021, the Grand Jurors of Lexington County present upon their oath:

That **Kelsey Nicole Spurlock** did in Lexington County, South Carolina, on or about October 3, 2019, knowingly and willfully enter a dwelling, without consent and with the intent to commit a crime therein, such being the dwelling located at 205 Ben Spires Road, Gaston, South Carolina, in violation of § 16-11-312(A) of the 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.



ASSISTANT SOLICITOR

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Lexington

STATE

VS.

INDICTMENT/CASE#: 2021 - GS - 32 - 02612Kelsey Nicole SpurlockA/W#: 2019A3221200070

AKA:

Date of Offense: 10/3/2019Race: White Sex: F Age: 32S.C. Code §: 44-53-0375(C)(2)(a)DOB: 1989 SS#: [REDACTED]CDR Code #: 0392Address: Straightway LaneCity, State, Zip: Gaston, SC 29053DL#* [REDACTED] SID# [REDACTED]

SENTENCE SHEET

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the above indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADSTO: Trafficking in Methamphetamine - 28 g or more, but less than 100 g - 1st offenseIn violation of § 44-53-0375(C)(2)(a) of the S.C. Code of Laws, bearing CDR Code # 0392
☐ NON-VIOLENT ☒ VIOLENT ☒ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ § 17-25-45
 (CSC w/minor 1st or CSC w/minor 3rd)

 The charge is: ☒ As indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (def.'s initials)
The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

[Signature] 102096
 Solicitor SC Bar # Defendant Attorney for Defendant SC Bar #
WHEREFORE, the Defendant is committed to the ☒ State Department of Correction ☐ County Detention Center,for a determinate term of 7 days/months/years/Time Served ☐ Youthful Offender Act not to exceed ___ years

and/or to pay a fine of \$___; provided that upon the service of ___ days/months/years/Time Served and or payment

of \$___; plus costs and assessments as applicable*; the balance is suspended with probation for ___

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

The sentence shall run

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on: _____☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by SCDOC.2 days/months☐ To include time spent on monitored house arrest prior to trial and sentencing.☐ The Defendant Shall be Released from County Detention Center.

Pursuant to 18 U.S.C. § 922 and § 16-25-30 it is unlawful for a person convicted of a violation of § 16-25-20 or § 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

STATE VS. Kelsey Nicole Spurlock INDICTMENT/CASE#: 2021 - GS - 32 - 02612

SPECIAL CONDITIONS:

☐ PTUP after _____ months/years

And Other Terms Listed Below:

- ☐ Substance Abuse Counseling ☐ Completion of GED ☐ Random Drug/Alcohol Testing
- ☐ Attend Voc. Rehab. Or Job Corp ☐ No Contact with Victim ☐ Domestic Violence Intervention Program
- ☐ Mental Health Counseling ☐ May serve W/E beginning: _____
- ☐ Sex Offender Registry pursuant to S.C. Code § 23-3-430 ☐ Public Service Employment _____ days/hours
- ☐ Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.
- ☐ Other: _____

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total \$ _____ plus 20% fee: _____ \$ _____

Payment Terms: _____ ☐ Set by SCDPPPS

Recipient: _____

*Fine:

Fine may be pd. in equal consecutive weekly/monthly pmts. of	\$ _____	Beginning	\$ _____
§14-1-206 (Assessments 107.5%)			\$ _____
§14-1-211 (A)(1)(Conv. Surcharge)	\$100		\$ 100
§14-1-211 (A)(2)(DUI Surcharge)	\$100		\$ _____
§56-5-2995 (DUI Assessment)	\$12		\$ _____
§56-1-286 (DUI Breath Test)	\$25		\$ 25
§14-1-212 (Law Enforce. Funding)	\$25		\$ _____
§14-1-213 (Drug Court Surcharge)	\$150		\$ 150
§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)	\$41		\$ _____
§50-21-114 (BUI Breath Test Fee)	\$50		\$ _____
§56-5-2942(J) (Vehicle Assessment)	\$40/ea		\$ _____
3% to County (if paid in installments)	TBD		\$ _____

☐ Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees☐ § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund

TOTAL

\$ 275.00

Clerk of Court/Deputy Clerk: Lisa Comer @
Court Reporter: Bethanne CrepponPresiding Judge: Debra McCaslinJudge Code: 27169Sentence Date: 9/16/2021

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Lexington

STATE

VS.

INDICTMENT/CASE#: 2021 - GS - 32 - 02981Kelsey Nicole SpurlockA/W#: 2019A3221200069

AKA:

Date of Offense: 10/3/2019Race: White Sex: F Age: 32S.C. Code §: 16-11-0312DOB: 1989 SS#: [REDACTED]CDR Code #: 0080Address: Straightway LaneCity, State, Zip: Gaston, SC 29053DL#* [REDACTED] SID# [REDACTED]

SENTENCE SHEET

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the above indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADSTO: Burglary (After June 20, 1985) - Third degree - 1st offenseIn violation of § 16-11-0313 of the S.C. Code of Laws, bearing CDR Code # 0427☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ § 17-25-45(CSC w/minor 1st or CSC w/minor 3rd)The charge is: ☐ As indicted, ☒ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. [REDACTED] (def.'s initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

[Signature]

102096

Solicitor

SC Bar #

Defendant

Attorney for Defendant

SC Bar #

WHEREFORE, the Defendant is committed to the ☐ State Department of Correction ☐ County Detention Center,for a determinate term of 20 days/months/years/Time Served ☐ Youthful Offender Act not to exceed yearsand/or to pay a fine of \$; provided that upon the service of days/months/years/Time Served and or paymentof \$; plus costs and assessments as applicable*; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

The sentence shall run

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on: ☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by SCDOC. 2 days/months☐ To include time spent on monitored house arrest prior to trial and sentencing.☐ The Defendant Shall be Released from County Detention Center.

Pursuant to 18 U.S.C. § 922 and § 16-25-30 it is unlawful for a person convicted of a violation of § 16-25-20 or § 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

STATE VS. Kelsey Nicole Spurlock INDICTMENT/CASE#: 2021 - GS - 32 - 02981

SPECIAL CONDITIONS:

☐ PTUP after _____ months/years

And Other Terms Listed Below:

- ☐ Substance Abuse Counseling ☐ Completion of GED ☐ Random Drug/Alcohol Testing
- ☐ Attend Voc. Rehab. Or Job Corp ☐ No Contact with Victim ☐ Domestic Violence Intervention Program
- ☐ Mental Health Counseling ☐ May serve W/E beginning: _____
- ☐ Sex Offender Registry pursuant to S.C. Code § 23-3-430 ☐ Public Service Employment _____ days/hours
- ☐ Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.
- ☐ Other: _____

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total \$ _____ plus 20% fee: _____ \$ _____

Payment Terms: _____ ☐ Set by SCDPPPS

Recipient: _____

*Fine:

Fine may be pd. in equal consecutive weekly/monthly pmts. of	\$ _____	Beginning	\$ _____
§14-1-206 (Assessments 107.5%)			\$ _____
§14-1-211 (A)(1)(Conv. Surcharge)		\$100	\$ 100
§14-1-211 (A)(2)(DUI Surcharge)		\$100	\$ _____
§56-5-2995 (DUI Assessment)		\$12	\$ _____
§56-1-286 (DUI Breath Test)		\$25	\$ _____
§14-1-212 (Law Enforce. Funding)		\$25	\$ 25
§14-1-213 (Drug Court Surcharge)		\$150	\$ _____
§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)		\$41	\$ _____
§50-21-114 (BUI Breath Test Fee)		\$50	\$ _____
§56-5-2942(J) (Vehicle Assessment)		\$40/ea	\$ _____
3% to County (if paid in installments)		TBD	\$ _____
☐ Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees		\$500	\$ _____
☐ § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund		TBD	\$ _____

TOTAL \$ 125

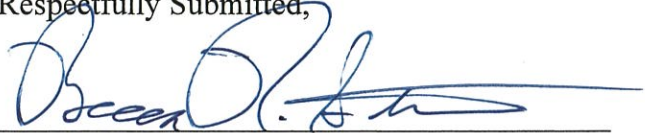
Clerk of Court/Deputy Clerk: Lisa Comer @
Court Reporter: Bethnie CreppanPresiding Judge: Debra McCaslin
Judge Code: 2769
Sentence Date: 9/16/2021

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

RECEIVED**Jun 29 2023****SC Court of Appeals**

Respectfully Submitted,



Breen Richard Stevens
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589

ATTORNEY FOR APPELLANT

This 29th day of June, 2023.