

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

Appeal from Greenwood County Court of General Sessions
The Honorable Donald B. Hocker, Circuit Court Judge

Appellate Case No. 2022-001156

The State.....Respondent

v.

Phillip Franklin Derrick.....Appellant

RECORD ON APPEAL

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1 THE COURT: Ladies and gentlemen, the case that we
2 will be starting this week is the State of South Carolina
3 versus Phillip Franklin Derrick. Mr. Derrick, would you
4 please stand and just face the jury panel for just a
5 second so they can see you. Thank you. Have a seat.
6 Now, ladies and gentlemen, Mr. Derrick has been indicted
7 for two criminal offenses and I will explain those to you
8 in just a minute. But let me first say, the fact that Mr.
9 Derrick has been indicted and charged with criminal
10 offenses is in no way, whatsoever, proof of any guilt on
11 his part. The indictments that I am holding right now,
12 which I am going to read to you in just a minute, contains
13 allegations and allegations only. And it is the burden on
14 the State to prove these allegations beyond a reasonable
15 doubt standard and I will explain more about that later
16 on. So you cannot hold it against Mr. Derrick,
17 whatsoever, that he has been indicted in this case. Once
18 again, the indictments are not proof of any guilt on Mr.
19 Derrick's part. I am going to publish these two charges
20 to you. The first charge is trafficking in
21 methamphetamine. That is under code section 44-53-375(c).
22 And it reads as follow, ladies and gentlemen, that the
23 Defendant, Phillip Franklin Derrick, did on or about April
24 9th, 2018 in Greenwood County, South Carolina sell,
25 manufacture, deliver, purchase or bring into this State or

1 did provide financial assistance or otherwise, aid, abet,
2 attempt or conspire to sell, manufacture, deliver,
3 purchase or bring into this State or was in actual or
4 constructive possession or attempted to become in actual
5 or constructive possession of 28 grams or more of
6 methamphetamine in violation of 44-53-375, code of laws
7 for South Carolina. The second indictment is for
8 possession of alprazolam. And that is under code section
9 44-53-370. The Defendant, Phillip Franklin Derrick, did
10 on or about April 9th, 2018 in Greenwood County, South
11 Carolina, knowingly or intentionally possess alprazolam, a
12 Scheduled IV controlled substance without obtaining it
13 directly from or pursuant to a valid prescription or order
14 of a practitioner in violation of section 44-53-370, code
15 of laws for South Carolina. Now, ladies and gentlemen, I
16 am going to ask you some questions specifically related to
17 this case. And, again, the same rules apply. If I ask
18 you a question that you are reluctant to respond to in
19 front of everybody then I will give you an opportunity, as
20 earlier, to speak with me privately. I don't anticipate
21 this but I may ask a question that I will direct you not
22 to respond to in front of everybody, I don't anticipate
23 that. Any member of the jury panel related by blood or
24 marriage, either now or formerly to Phillip Franklin
25 Derrick. If so please stand.

1 (No response.)

2 THE COURT: Any member of the jury panel have or had
3 in the past a close, personal or social relationship with
4 Phillip Franklin Derrick. If so, please stand.

5 (No response.)

6 THE COURT: Now the next question is concerning
7 potential witnesses. I am going to read, in just a
8 second, a list of potential witnesses in this case. When
9 I say potential, they may or may not testify. Gregory
10 Allison with the Greenwood County Sheriffs Office; Cody
11 Bishop with the Greenwood County Sheriffs Office; Chad Cox
12 with the Greenwood County Sheriffs Office; Bryan Louis
13 with the Greenwood County Sheriffs Office; Jamison with
14 the Greenwood Police Department; Wesley McClinton with the
15 Greenwood Police Department; Matthew Noblin, N-O-B-L-I-N,
16 with the Greenwood County Sheriffs Office; Matthew D.
17 Womack with the Greenwood County Sheriffs Office;
18 Charlotte Pitts with SLED; Lynn Black with SLED; Doris
19 Yarborough with SLED; Jamie Couey, C-O-U-E-Y; and Franklin
20 Lee Spells. Any member of the jury panel related by blood
21 or marriage, either now or formerly, to any of those
22 people that I just named; any member of the jury panel
23 have or had in the past a close, personal or social
24 relationship with any of those people that I have just
25 named. If that applies to you please stand. We have got

1 two standing. Your number.

2 JUROR: Jason Teague, 200. I taught one of them in
3 school.

4 THE COURT: Who did you go to school with?

5 JUROR: I taught.

6 THE COURT: Taught, excuse me. Who did you teach?

7 JUROR: Weslie McClinton.

8 THE COURT: Okay. And how long ago was this,
9 roughly.

10 JUROR: Five or ten years ago.

11 THE COURT: The fact that you were formerly a teacher
12 of Weslie McClinton, does that in any way affect your
13 ability to be fair and impartial to both sides in this
14 case?

15 JUROR: No, sir.

16 THE COURT: Name and number.

17 JUROR: Brandon Farmer, juror 65.

18 THE COURT: Yes, sir.

19 JUROR: I knew Wesley and Cody Bishop, went to school
20 with them.

21 THE COURT: And approximately how long ago has that
22 been?

23 JUROR: At least 15 years.

24 THE COURT: The fact that you went to school with
25 those potential witnesses a long time ago, would that in

1 any way affect your ability to be fair and impartial?

2 JUROR: I don't believe so.

3 THE COURT: Okay, thank you. Have a seat.

4 Ma'am, name and number?

5 JUROR: Angela Young, juror number 224. I was a
6 former neighbor of Bryan and Jamie.

7 THE COURT: A former neighbor of Bryan Louis?

8 JUROR: Yes.

9 THE COURT: The fact that you were a former neighbor
10 of Bryan Louis, how long ago was that?

11 JUROR: Two years ago.

12 THE COURT: Would that in any way affect your ability
13 to be fair and impartial to both sides in this case?

14 JUROR: No.

15 THE COURT: Thank you, Ma'am.

16 Sir, in the back.

17 JUROR: Yes, sir. I am Michael Beard, number 14.
18 And I have been for several years now friends with Officer
19 Bishop.

20 THE COURT: Would you consider this friendship to be
21 close and regular friendship?

22 JUROR: We go to church together, yes sir.

23 THE COURT: Okay. You see him on a regular basis?

24 JUROR: Yes, sir.

25 THE COURT: Okay. I am going to excuse you from the

1 trial of this case. You are free to go, sir.

2 Now, at this time I am going to give the attorneys an
3 opportunity to introduce themselves. And I know these
4 three attorneys very well. And I don't say this about
5 every attorney that appears in my courtroom, but I can say
6 it about these three. They are excellent attorneys and I
7 know all three will do a very good job in this case. I
8 will allow the State to go first.

9 MR. BROWN: Thank you, Your Honor. Good morning, I
10 am Yates Brown, Deputy Solicitor for the Eighth Circuit
11 Solicitors Office; it is Greenwood, Abbeville and Newberry
12 and Laurens. Trying this case with me is Madison Hoffman
13 and then also our Investigator, Blake Moore will be in and
14 out of the courtroom. Thank you.

15 THE COURT: And from the Defense.

16 MR. YARBOROUGH: Good morning. I am Bill Yarborough.
17 I am a lawyer in Greenville, South Carolina. I represent
18 Mr. Derrick. It is my pleasure to be here. Thank you.

19 THE COURT: Thank you. Any member of the jury panel
20 ever been represented by any of the attorneys involved in
21 this case and anyone in their respective offices, if so
22 please stand.

23 (No response.)

24 THE COURT: Any member of the jury panel related by
25 blood or marriage, either now or formerly, or have or had

1 in the past a close, personal or social relationship with
2 any of the attorneys involved in this case or anyone in
3 their respective offices. If so please stand.

4 Yes sir, your name and number?

5 JUROR: William Culbertson, number 44.

6 THE COURT: Okay, Mr. Culbertson.

7 JUROR: I go to church with Mr. Brown.

8 THE COURT: Okay. And do you, assuming your church
9 attendance is regular as well as Solicitor Brown's, you
10 would see him on a regular basis?

11 JUROR: Not regular, I guess, all the time. But, yes
12 sir, I do see him quite often.

13 THE COURT: I am going to excuse you from the trial
14 of this case. You are free to go, sir. Thank you. That
15 is number 44.

16 Any member of the jury panel already formed or
17 expressed any opinion about any issue or matter involved
18 in this case. I realize you know very little about it but
19 if you have already formed or expressed any opinion then I
20 need to know that now. If that applies to you please
21 stand.

22 (No response.)

23 THE COURT: Any member of the jury panel aware of any
24 biased or prejudiced towards either the State of South
25 Carolina or the Defendant, Phillip Franklin Derrick. If

1 so please stand.

2 (No response.)

3 THE COURT: Is there any member of the jury panel is
4 a member of or a contributor to any group which has as its
5 primary concern the promotion of law enforcement or
6 victims rights. And these groups would include, certainly
7 not limited to and I will give you the acronyms. MADD,
8 SADD or CAVE. If that applies to you, please stand.

9 (No response.)

10 THE COURT: Any member of the jury panel know of any
11 reason whatsoever why he or she should not serve as a
12 juror in this case with particular emphasis being placed
13 on your ability to be fair and impartial to both the State
14 of South Carolina and the Defendant, Phillip Franklin
15 Derrick. And that's the key, ladies and gentlemen, we
16 want 12 jurors in this box, we typically pick a couple of
17 alternates; but we want people in this jury box who can be
18 completely fair and completely impartial to both sides in
19 this case. But if you believe for some reason that you
20 can't be then I need to know that now. If that applies to
21 you, please stand.

22 (No response.)

23 THE COURT: Does anybody need to speak with me
24 privately about any of the questions that I have just
25 asked or any particular concern or issues. If so please

1 stand.

2 Okay, we have got some, let me explain one thing to
3 you. The odds of you getting selected are in your favor
4 that you will not be. Now, I am not telling you you are
5 not going to get selected but because of the numbers that
6 we have, we have in the 50 range. We only pick 12, we
7 will pick two alternates. So just by virtue of the
8 numbers that we have in the panel the odds are in your
9 favor that you will not get selected. Once again, I am
10 not telling you you won't be. Okay. So just keep that in
11 mind as you are going to try to convince me in some way to
12 excuse you from the trial of this case. Line up in the
13 aisle, please.

14 (Whereupon, The Court and some of the jurors had
15 discussions at the bench.)

16 THE COURT: Ladies and gentlemen, what we have left
17 to do is actually pick the trial jury. And in just a few
18 minutes a list will be prepared, will be furnished to the
19 lawyers. They will need a few minutes to look over it.
20 And if your name is called out you will come down and
21 stand about where I am standing right here and face the
22 lawyers. You will hear words such as swear the juror, or
23 accept the juror or excuse the juror from the trial of
24 this case. If you are called down here and you are not
25 selected don't take it personally. These lawyers have

1 been at it a long time, they have certain reasons why they
2 want particular people on a jury, reasons for not wanting
3 people on the jury. So don't take it personally. So will
4 be just a few minutes. Does anybody really need a break
5 or can wait another 15 or 20 minutes. Here is what we are
6 going to do. We can take a short break. If you need a
7 restroom break then go on and then come right back in, ten
8 minutes tops. If you don't need a break just keep your
9 seat where you are. You can't have any discussions among
10 yourselves. You know very little about this case but you
11 can't have any discussions about this case whatsoever.
12 And even if you are selected on the trial jury you are
13 going to be hearing me say that throughout the entire
14 trial, any discussions about this case cannot start until
15 you begin your deliberations when I give you the case to
16 decide. So if you have go out and one of your fellow
17 jurors are at the bathroom door don't talk about what you
18 have heard or seen so far. Ten minutes.

19 (Whereupon, a short break was taken.)

20 THE COURT: Okay. If your name is called come down.
21 Five and five on the strikes. Two and one each on two
22 alternates. Madam Clerk, you can start whenever you are
23 ready.

24 CLERK OF COURT: Juror number 1, excuse me, 192,
25 Timothy Still. What says the State?

1 MR. BROWN: Please excuse this juror from the trial
2 of this case.

3 CLERK OF COURT: 54, Brittany Dunlap. What says the
4 State?

5 MR. BROWN: Please present Ms. Dunlap.

6 CLERK OF COURT: What says the Defense?

7 MR. YARBOROUGH: Please excuse Ms. Dunlap.

8 CLERK OF COURT: 32, Natoya Cartledge. What says the
9 State?

10 MR. BROWN: Please present Ms. Cartledge.

11 CLERK OF COURT: What says the Defense?

12 MR. YARBOROUGH: Please swear the juror.

13 CLERK OF COURT: 146, James Neel. What says the
14 State?

15 MR. BROWN: Please present Mr. Neel.

16 CLERK OF COURT: What says the Defense?

17 MR. YARBOROUGH: Please swear the juror.

18 CLERK OF COURT: Juror number 12, Jonathan Bautista.
19 What says the State?

20 MR. BROWN: Please present Mr. Bautista.

21 CLERK OF COURT: What says the Defense?

22 MR. YARBOROUGH: Please swear the juror.

23 CLERK OF COURT: 177, Russell Sellars. What says the
24 State?

25 MR. BROWN: Please present Mr. Sellars.

1 CLERK OF COURT: What says the Defense?

2 MR. YARBOROUGH: Please swear the juror.

3 CLERK OF COURT: Number 50, Ashley Devore. What says
4 the State?

5 MR. BROWN: Please present Ms. Devore.

6 CLERK OF COURT: What says the Defense?

7 MR. YARBOROUGH: Please excuse Ms. Devore.

8 CLERK OF COURT: Juror number 175, Arica Scott. What
9 says the State?

10 MR. BROWN: Please present Ms. Scott.

11 CLERK OF COURT: What says the Defense?

12 MR. YARBOROUGH: Please swear the juror.

13 CLERK OF COURT: 114, Ronnie Kneece. What says the
14 State?

15 MR. BROWN: Please present Mr. Kneece.

16 CLERK OF COURT: What says the Defense?

17 MR. YARBOROUGH: Please swear the juror.

18 CLERK OF COURT: 25, Connor Brown. What says the
19 State?

20 MR. BROWN: Please present Mr. Brown.

21 CLERK OF COURT: What says the Defense?

22 MR. YARBOROUGH: Please swear the juror.

23 CLERK OF COURT: 116, William Leslie. What says the
24 State?

25 MR. BROWN: Please present Mr. Leslie.

1 CLERK OF COURT: What says the Defense?

2 MR. YARBOROUGH: Please excuse this juror.

3 CLERK OF COURT: 70, William Garrison. What says the
4 State?

5 MR. BROWN: Please present Mr. Garrison.

6 CLERK OF COURT: What says the Defense?

7 MR. YARBOROUGH: Please present this juror.

8 CLERK OF COURT: 184, Tracey Snodgrass. What says
9 the State?

10 MR. BROWN: Please present Ms. Snodgrass.

11 CLERK OF COURT: What says the Defense?

12 MR. YARBOROUGH: Please swear the juror.

13 CLERK OF COURT: 135, Catherine Miller. What says
14 the State?

15 MR. BROWN: Please present Ms. Miller.

16 CLERK OF COURT: What says the Defense?

17 MR. YARBOROUGH: Please excuse the juror.

18 CLERK OF COURT: 176, Shannon Searles. What says the
19 State?

20 MR. BROWN: Please present Ms. Searles.

21 CLERK OF COURT: What says the Defense?

22 MR. YARBOROUGH: Please present the juror.

23 CLERK OF COURT: 139, Mary Moon. What says the
24 State?

25 MR. BROWN: Please present Ms. Moon.

1 CLERK OF COURT: What says the Defense?

2 MR. YARBOROUGH: Please present the juror.

3 CLERK OF COURT: 216, Kalema Williams. What says the
4 State?

5 MR. BROWN: Please present Ms. Williams.

6 CLERK OF COURT: What says the Defense?

7 MR. YARBOROUGH: Please present the juror.

8 THE COURT: Two alternates, two and one on the
9 strikes.

10 CLERK OF COURT: 136, Angela Minick. What says the
11 State?

12 MR. BROWN: Please present Ms. Minick.

13 CLERK OF COURT: What says the Defense?

14 MR. YARBOROUGH: Please excuse this juror.

15 CLERK OF COURT: 143, Teresa Moss. What says the
16 State?

17 MR. BROWN: Please present Ms. Moss.

18 CLERK OF COURT: What says the Defense?

19 MR. YARBOROUGH: Please present the juror, swear the
20 alternate.

21 CLERK OF COURT: 97, Jonathan Hord. What says the
22 State?

23 MR. BROWN: Please excuse Mr. Hord from the trial of
24 this case.

25 CLERK OF COURT: 99, Jacqueline Hoskins. Any excuse

1 for cause from the State?

2 MR. BROWN: Not from the State.

3 CLERK OF COURT: What says the Defense?

4 MR. YARBOROUGH: Please swear the alternate.

5 THE COURT: Okay. Thank you, Madam Clerk. Ladies
6 and gentlemen, congratulations, you have been selected as
7 the trial jury in this case. What I want you to do, this
8 is the jury room that you will be spending some time in
9 this week. I want you to go back to the jury room. I
10 just need to talk with the lawyers for just a minute, kind
11 of have a plan as far as when we are going to start this
12 case. Let me remind you, do not begin any discussions
13 among yourselves about anything related to this case. You
14 are going to hear me say that on a regular basis as we go
15 through this trial. Again, no discussions and those
16 discussions can't start until I give you the case to begin
17 your deliberations at the end of this case. So go back,
18 get to know one another for just a few minutes and then we
19 will get you back out. Okay.

20 (Whereupon, the jury was excused from open court for
21 a break.)

22 THE COURT: Does the State have any exceptions to
23 jury selection?

24 MR. BROWN: Not from the State.

25 THE COURT: And the Defense?

1 MR. YARBOROUGH: No, sir.

2 (Whereupon, the remaining jury panel was excused from
3 open court.)

4 THE COURT: Let's get the jury back out.

5 (Whereupon, the jury came into open court at
6 approximately 11:54 a.m.)

7 THE COURT: Okay, ladies and gentlemen, here is the
8 plan. We are going to start in the morning. I have got
9 some pretrial matters that I need to work on with the
10 lawyers. So what I want you to do is to report back at
11 9:30 in the morning and we will get started with the case.
12 All right. Now, my instruction to you as far as don't
13 have any discussions among yourselves about anything
14 related to this case, also extends for anybody that you
15 come into contact with this afternoon or this evening,
16 whether it is family members, neighbors, coworkers,
17 whatever the case may be. You can certainly tell them
18 that I have been picked on a jury but leave it at that and
19 don't have any discussions with those people that you come
20 into contact with. And lastly, don't go on the internet
21 or social media or anything like that to try to gain
22 information about this case, the lawyers, the Defendant,
23 anything of that nature. I will explain in more detail in
24 the morning why you cannot do that, don't do any of that
25 tonight or while this case is going on. Again, I will

1 explain to you why that is so virtually important that you
2 don't do it. Okay. So have a good rest of your day and
3 we will see you in the morning at 9:30. And, Ms. Moon,
4 just plan on coming back, I will talk to the lawyers about
5 how long they think this case will take. Okay.

6 (Whereupon, the jury was excused from open court, to
7 start back at 9:30 a.m. the next morning.)

8 THE COURT: Okay. Before we break for lunch. One of
9 the juror's, Ms. Moon, informed us that she is going on
10 vacation at 3:00 o'clock on Thursday. Do you anticipate
11 concluding this case?

12 MS. HOFFMAN: Yes, sir.

13 MR. YARBOROUGH: Yes, sir.

14 THE COURT: So we will keep her then. See y'all back
15 around 1:30. He is out on bond?

16 MR. BROWN: He is.

17 THE COURT: Mr. Derrick, I have the right to revoke
18 your bond during this trial. I typically do not if there
19 have been no violations or issues.

20 MR. BROWN: Judge, at the time of this arrest, he
21 does have about five sets of new charges.

22 THE COURT: Okay. Subsequent to these charges?

23 MR. BROWN: Yes, sir. This is one of the oldest
24 ones. This is a 2018 and he has six separate newer
25 charges.

1 THE COURT: And all of those are pending?

2 MR. BROWN: Yes, sir.

3 THE COURT: But he has gotten out on bond each time?

4 MR. BROWN: Yes, sir.

5 THE COURT: Any failure to appear as far as
6 appearance dates?

7 MR. BROWN: Judge, we actually did have a bench
8 warrant on him, on these charges. And then, you remember
9 going back on the emails last August, Scarlet Moore came
10 in and asked that the bench warrant be lifted. And then
11 he was appointed counsel then. This is the one counsel
12 was the issue --

13 THE COURT: I remember Scarlet Moore being involved
14 for some period of time before Mr. Yarborough.

15 MR. BROWN: There was bench warrants out and then she
16 had it lifted last August.

17 THE COURT: Okay.

18 MR. YARBOROUGH: He has been here ever since and he
19 has always met at my office. He has been there, he has
20 been in regular contact with me, Your Honor.

21 THE COURT: I am not going to revoke. Understand Mr.
22 Derrick, that for whatever reason you don't come back you
23 are going to be tried in your absence. We are not going
24 to hold off, we will proceed forward. And if I hear
25 anything that is not of a positive nature concerning you

1 then I won't hesitate to revoke your bond. So you do
2 everything Mr. Yarborough tells you, be here when I tell
3 everybody to be here. Okay.

4 MR. DERRICK: Yes, sir.

5 THE COURT: Okay. See everybody back at 1:30.

6 (Whereupon, a lunch break was taken.)

7 THE COURT: We are on the record in the State versus
8 Phillip Franklin Derrick case. And I will be glad to hear
9 from you. You indicated a suppression hearing; Jackson v.
10 Denno; maybe some other issues. What do you want to do
11 first?

12 MR. BROWN: Judge, I can call Bryan Louis. Just to
13 give you an overview. Bryan Louis was with the Greenwood
14 DEU at that time; he is now Chief of Police at Ware Shoals
15 PD. This is a 2018 case. He had a confidential informant
16 do a controlled buy at the location of 110 Barkwood Lane
17 here in Greenwood. And at that location was Mr. Phillip
18 Derrick and also his sister, Jamie Couey. That CI or that
19 drug buy took place a couple of days before, before the
20 actual execution of the search warrant. Based off of that
21 controlled buy Mr. Louis did seek a search warrant for 110
22 Barkwood Lane which would have been the mobile home, the
23 bigger home on the property and then there was a camper
24 out back and other surrounding curtilage of that property.
25 So that was executed, the search warrant came about on

1 August or April 6th of 2018. And the search warrant was
2 executed on April 9th of 2018 by the DEU. And so that
3 would kind of be the basis of this going forward. So we
4 would call Bryan Louis.

5 THE COURT: Mr. Yarborough, you are standing.

6 MR. YARBOROUGH: I just wanted to say, Your Honor,
7 maybe to make this as simple for the Court as possible. I
8 think what we are focusing on as far as the search warrant
9 is concerned, it is not the question of whether or not
10 there was a confidential buy made; we accept that, not
11 made from my client, it was made from his sister. But the
12 challenge is to the search of the, what is referred to in
13 the search warrant as a white, black and tan colored is
14 also located behind the residence. We have got pictures
15 of that we can give to the Court. I think it might be
16 easier for the Court to understand where we are coming
17 from before you start taking testimony. We are not
18 challenging the validity of the search warrant. We are
19 challenging the validity of the search of the camper
20 behind, which is about one-hundred yards behind the house
21 where the original buy was allegedly made according to the
22 affidavit.

23 THE COURT: Okay. Hand up what you have got, Mr.
24 Yarborough. You have seen what he has got, Solicitor?

25 MR. BROWN: I believe it is going to be the search

1 warrant and then pictures that law enforcement took.

2 THE COURT: You want to just take a look and make
3 sure you have already seen them.

4 MR. BROWN: Yes, sir.

5 (Whereupon, Mr. Brown and Mr. Yarborough looks at the
6 pictures.)

7 (Whereupon, Defendant's Exhibit numbers 1 through 5
8 were marked as identification only.)

9 THE COURT: So the search was done, I think you said
10 camper behind the residence. Is that right?

11 MR. YARBOROUGH: Your Honor, the search warrant was
12 given for the property which is located, which is the
13 mobile home. That is the mobile home pictures.
14 Approximately a hundred yards behind the mobile home was a
15 camper which was also a residence of itself. And that was
16 not listed in the search warrant. What the search warrant
17 says is a black and tan but it doesn't have anything more
18 particular -- first of all, I don't think you can have
19 search warrants for two buildings. That would be like
20 having an apartment A and apartment B. You would have to
21 have two separate search warrants. Here there is only one
22 search warrant. The search warrants for the large mobile
23 home, I am assuming that is where the buy was made from.
24 Approximately a hundred yards behind which couldn't be
25 considered curtilage, is a residence which is a camper

1 which has a wooden platform built around it. And that was
2 searched, that is where the arrest and the narcotics were
3 found.

4 THE COURT: From the camper?

5 MR. YARBOROUGH: In the camper which is, in the
6 police reports it is, the words go back and forth between
7 camper and mobile home. But that is where the drugs were
8 found and we are challenging the search of that camper.
9 Because we don't believe there was a search warrant for
10 the camper and we don't believe that the search warrant,
11 if you could have a search warrant for two separate
12 residents, we don't believe that that search warrant is
13 specifically outlined in the affidavit enough to have
14 gotten it. I don't think you can have two but if you did
15 have two I don't think it would be enough, because two
16 prongs.

17 THE COURT: What I am reading is, the target location
18 is 110 Barkwood Lane, County of Greenwood, South Carolina.
19 The residence is in a colored doublewide mobile home with
20 brown trim, gray roof and a covered front porch. A white
21 and tan in color is also located behind the residence. I
22 have to assume that the word, camper, was just
23 inadvertently left out of that line. I mean a white and
24 tan in color is also located behind the residence. So
25 what you are saying, Mr. Yarborough, before I turn it over

1 to the State I want to make sure I understand your
2 argument. You are saying that because the camper is a
3 separate residence or was a separate residence at the time
4 that the State should have gotten two search warrants; one
5 for the mobile home up front and one for the camper in the
6 back. Is that what you are suggesting?

7 MR. YARBOROUGH: Or should have at least alleged
8 facts, that would be my first argument. Yes, sir. And
9 the second argument I would have, the State would have
10 needed to specifically laid out where that camper was. I
11 am going to use the word, camper, for the back and the
12 mobile home for the first. Where that camper was and
13 because it is, black and tan is not enough to specifically
14 lay it out, Your Honor. The search warrant is for the
15 mobile home and it is addressed very correctly and very
16 specifically where the mobile home is. Then, regardless
17 if the word was left out or not, I don't think there is
18 enough probable cause to have allowed them to search two
19 separate buildings. And I would go back to my original
20 point, it would be analysis of, we have got apartment 146A
21 and apartment 146B and so we are going to say, okay, we
22 can search both apartments with one search warrant. That
23 is not what you would do, you would have a search warrant
24 for 146A and a search warrant for 146B, if that was the
25 case.

1 THE COURT: Now these pictures, Exhibit 1, 2 and 3,
2 it appears all three relate to the mobile home. Is that
3 correct?

4 MR. YARBOROUGH: No, sir. There is one of the mobile
5 home and then you see a camper which is way back in the
6 woods and that is what I am saying was the inappropriate
7 search.

8 THE COURT: Well, you may have to help me here, Mr.
9 Yarborough. Is number two the camper?

10 MR. YARBOROUGH: Number two and number three. Can I
11 see, may I approach?

12 THE COURT: Yes, come on up here.

13 MR. YARBOROUGH: Number 1 is the mobile home; number
14 2 and 3 is the camper.

15 THE COURT: Just didn't look like what I think a
16 camper is but nonetheless. The State agrees it is a
17 camper?

18 MR. BROWN: Yes, sir. I don't know what the year,
19 make and model is but it is a little camper that has got a
20 bed in it, a kitchen and another little room.

21 MR. YARBOROUGH: But had it been, it had been turned
22 in at the time to be a stationary living place. It wasn't
23 mobile.

24 THE COURT: Okay. Let me hear from the State. Your
25 position?

1 MR. BROWN: Yes sir, Judge. So, again, going back to
2 the CI buy, that took place, let me get that packet and
3 tell you exactly when that took place. It took place
4 right before, so this search warrant was dated April 6th
5 of 2018. And Investigator Bryan Louis at the time was the
6 one that had this or had the CI do the buy. They go to
7 the Magistrate and present. And in the search warrant,
8 Judge, I know you have it up there, you will see the
9 affidavit.

10 THE COURT: Right, I haven't read the affidavit.

11 MR. BROWN: You have the written affidavit and that
12 gives, Bryan Louis tells about his years in law
13 enforcement and that he is, he is authorized to make
14 searches and seizure and completed a clandestine
15 laboratory safety certification course. But below that he
16 writes, within the past 72 hours the document of a
17 reliable confidential informant, working with the
18 Greenwood County DEU purchased a quantity of crystal like
19 substance which tested positive for meth from Jamie Couey
20 in a camper behind the residence located at 110 Barkwood
21 Lane in the County of Greenwood, South Carolina. The
22 informant was equipped with audio/video capabilities and
23 made contact with Couey who exchanged a clear plastic bag
24 containing a crystal like substance from U.S. currency.
25 The informant then left the residence and made contact

1 with agents and relinquished the drugs.

2 THE COURT: So you are saying the CI buy took place
3 it was at the camper and not at the mobile home.

4 MR. BROWN: Yes, sir. That is the camper and it is
5 in the affidavit. Also in the CI video there are, there
6 is a man sitting in the corner of the camper and when she
7 returned, when the CI returns and hands it back over it is
8 documented on the video that Couey was in there and that
9 Phillip Derrick was also in there, in the camper. So in
10 the affidavit it mentions camper, that is where the actual
11 buy took place was in the camper behind 110 Barkwood Lane.
12 My understanding is, that camper did not have an
13 individual address. It is all on the property of 110
14 Barkwood Lane. So it is not the equivalent of going to
15 apartment A and apartment B. This is one, 110 Barkwood
16 Lane with more, you know, more buildings on it which is,
17 in fact, the camper. And then also, so you have the
18 affidavit. Within Exhibit A also had a GIS image for that
19 property and describes exactly what they are looking at.
20 You have got the doublewide in the front and then a white
21 in color, my understanding and I believe it would be a
22 camper because they actually make a specific sentence
23 there, saying white and tan in color is also located
24 behind the residence. And I think if you look at the
25 search warrant all in totality, with the affidavit there,

1 that also clearly references a camper. You can clearly
2 understand what they are referring to. So and also at the
3 bottom of that same exhibit is, it is reasonable to
4 believe these items will be found inside the residence;
5 vehicles, campers, curtilages or other outer buildings.

6 THE COURT: Okay.

7 MR. BROWN: So he does specifically say, camper, in
8 the search warrant. and having a buy within the last 72
9 hours would give probable cause for that search.

10 THE COURT: So the buy was within 72 hours?

11 MR. BROWN: Yes, sir.

12 THE COURT: I know you have given me some dates.

13 MR. BROWN: Yes, sir.

14 THE COURT: Mr. Yarborough, anything further on the
15 suppression issue?

16 MR. YARBOROUGH: No sir, Your Honor. I just think it
17 is a matter of public record and we will get to that. But
18 that camper was being rented by another individual. And
19 that individual was not, was renting the camper, it wasn't
20 in their ability to control it. It would have been simple
21 for them to get a separate search warrant for it because
22 it is not curtilage, it is not like a garage that was
23 attached. It is another, you can take the testimony but
24 that is the argument.

25 THE COURT: Okay. Well, let's take a little

1 testimony from Officer Louis and I can make a ruling on
2 this. I guess he is going to be the witness for the
3 Jackson v. Denno as well?

4 MR. BROWN: Yes, sir.

5 Bryan Louis, being
6 first duly sworn, testified as follows:

7 DIRECT EXAMINATION

8 By Mr. Brown:

9 Q Good afternoon, Chief Louis.

10 A Good afternoon, sir.

11 Q Chief Louis, just for the purposes of this hearing,
12 where are you currently employed now.

13 A Ware Shoals Police Department.

14 Q And you are the Chief of Police there?

15 A Yes, I am.

16 Q Back in 2018, specifically April 9th of 2018, where
17 were you employed?

18 A Greenwood County Sheriffs Office, drug unit.

19 Q Drug unit?

20 A Yes.

21 Q And what type of position, what was your position
22 there?

23 A Just drug agent.

24 Q And being a drug agent, what were you tasked with?

25 A We did controlled buys of narcotics, traffic stops,

1 did search warrants of residents.

2 Q And doing that type of law enforcement work, had you
3 gone to a specialized training courses?

4 A I have been to several drug classes, I did do a
5 clandestine lab class and I think it was in Iowa.

6 Q And how long were you in law enforcement back in
7 2018?

8 A I have been, I went through certification in '99.

9 Q '99.

10 A Yes.

11 Q So you were 19 years in at that point?

12 A Correct.

13 Q And doing drug work, I guess more specialized in the
14 task force?

15 A Yes.

16 Q How long have you been doing that?

17 A I think it has been about eight years.

18 Q About eight years. How many search warrants you
19 think you have been a part of in executing?

20 A A lot, I don't have a number but a lot of different
21 search warrants.

22 Q And in this particular case, did you have the
23 opportunity to work with a confidential informant
24 regarding the location of 110 Barkwood Lane?

25 A Yes, I did.

1 Q And in doing so did you actually have a confidential
2 informant or how did you learn of 110 Barkwood Lane?

3 A Through the confidential informant. They approached
4 me with that information to see if they could buy a
5 quantify of methamphetamine from that location.

6 Q And this confidential informant, had you used this
7 person before?

8 A I have, several times.

9 Q And over the course of using this person, did you
10 find them to be reliable?

11 A Yes, I did.

12 Q And by using that person, had they been wired up
13 before?

14 A Yes, they have, every time.

15 Q And did they buy drugs from different people?

16 A Yes, they did.

17 Q So does that make them reliable?

18 A It does.

19 Q Before doing, wiring that person up, what is the
20 practice of the DEU at that time would do, to make sure it
21 was a controlled buy. What makes it controlled?

22 A Basically before we wire them up we complete a search
23 of that person, if they are driving a vehicle we complete
24 a search of that vehicle as well.

25 Q And what is the purpose of that?

1 A To make sure they are not going there with any
2 narcotics.

3 Q And did you do it in this case?

4 A We did.

5 Q And this person did not have any narcotics on them?

6 A That's correct.

7 Q Or in their vehicle?

8 A Correct.

9 Q Once you check the vehicle and that person, what type
10 of surveillance do you equip with them?

11 A We try to get as close to the target residence as we
12 can. We do a monitor, we can hear what is going on
13 through a recording, a transmitter. We just can't always
14 see them. We try to position ourselves where we can see
15 them but it is not always able to.

16 Q In this particular case, from the time this CI left
17 your position after being wired up, roughly took around
18 ten minutes round trip?

19 A Correct.

20 Q And after this person goes to 110 Barkwood Lane,
21 could you hear the conversation?

22 A Yes, we can.

23 Q Through the transmitter?

24 A Yes.

25 Q And then you were able to watch the video?

1 A Yes.

2 Q After meeting back up with the CI, did this person
3 provide you with methamphetamine?

4 A They did.

5 Q And obviously they didn't have the money that was
6 provided to the CI, is that right?

7 A Correct.

8 Q And in doing so, after meeting back up with the CI,
9 did this person give a description of where the buy took
10 place?

11 A They did, they said it was in the camper behind 110
12 Barkwood Drive.

13 Q And also give law enforcement or you the names who
14 were in that building?

15 A They did. They said Jamie Couey and Phillip Derrick
16 were in there.

17 Q Was there a third person also?

18 A I can't remember if there was a third person there.

19 Q But definitely Couey and Derrick?

20 A Definitely.

21 Q And are Couey and Derrick, are they related?

22 A I believe they are brother and sister.

23 Q After meeting back up with the CI and getting
24 methamphetamine from this person what did you do next?

25 A Then we, did a search of their person and their

1 vehicle. And then did a quick briefing on what happened,
2 what they got, where they got it, who was there; make sure
3 they didn't have any money of them as well. And then we
4 get the recording device back.

5 Q After completing that drug buy what did you do next?

6 A After we got all of our equipment back we went back
7 to the drug unit, typed the report, put into evidence; the
8 methamphetamine we put into evidence. And then prepared
9 to do a search warrant.

10 Q Okay. And did you actually do the search warrant?

11 A I did.

12 Q And on the face of the search warrant, it is for 110
13 Barkwood Lane, Greenwood, South Carolina. Is that
14 correct?

15 A That's correct.

16 Q And the date this search warrant was typed up is
17 April 6th of 2018?

18 A Correct.

19 Q And presented to the Magistrate here in Greenwood?

20 A It was.

21 Q I am going to direct your attention to the affidavit
22 and to the, I guess, the body of the affidavit about what
23 transpired leading up to the search warrant. I have
24 already read that on the record, out what you have typed.
25 But, again, would you just read what you wrote?

1 A Where do you want me to start?

2 Q Within the past 72 hours.

3 A Within the past 72 hours I documented reliable
4 confidential informant work with Greenwood County DEU.
5 Purchased a quantity of crystal like substance which
6 tested positive for meth from Jamie Couey in a camper
7 behind the residence of 110 Barkwood Lane in the County of
8 Greenwood, South Carolina. The informant was equipped
9 with audio/video recording capabilities and made contact
10 with Couey who exchanged a clear plastic bag containing a
11 crystal like substance with recorded U.S. currency. The
12 informant then left the residence and made contact with
13 agents and relinquished the drugs. Couey has been
14 arrested at the residence, drug paraphernalia and has been
15 located inside the residence.

16 Q And, again, in that body, in that affidavit, you
17 specifically mentioned the camper?

18 A I did.

19 Q And also, I direct your attention to Exhibit A.
20 Again, you mentioned 110 Barkwood Lane. Tan in color
21 doublewide mobile home. And then also in this next
22 sentence, a white and tan in color. What do you mean
23 there?

24 A The camper was suppose to be in that sentence. I
25 guess it just got omitted out of there.

1 Q And when doing a search warrant or asking a
2 Magistrate to sign it, sometimes you give more information
3 that is actually documented or written in this search
4 warrant. Is that correct?

5 A That's correct.

6 Q Magistrate often times ask you additional questions?

7 A They do.

8 Q To answer any questions they may have?

9 A That's correct.

10 Q In order for them to find probable cause to issue the
11 search warrant. Is that correct?

12 A That's correct.

13 Q And in this incident, on April 6th of 2018 the
14 Magistrate did sign the search warrant?

15 A They did.

16 Q And then on April 9th you and the rest of the DEU
17 plus some other officers did execute the search warrant.
18 Is that correct?

19 A That's correct.

20 Q Did you provide the return back to the Magistrate?

21 A I believe I did. I believe I did, yes.

22 Q Actually at the scene on April 9th at 110 Barkwood
23 Lane, did you actually fill this out or did another
24 sheriff's deputy?

25 A I am sorry, which part?

1 Q The actual return. Did you actually fill it out or
2 did another deputy?

3 A Another deputy did.

4 Q Would that have been Cody Bishop?

5 A I believe it was.

6 Q But you were there the entire time?

7 A I was.

8 Q And upon writing the return from this search warrant,
9 it was, a number of items were found in the camper?

10 A Correct.

11 Q Actually nothing was found in the mobile home?

12 A It was not.

13 Q But the drugs, the methamphetamine and alprazolam and
14 marijuana were found in the camper or in his pocket?

15 A Correct.

16 Q Where were Mr. Derrick and Ms. Couey?

17 A Inside the camper. Ms. Couey was, kind of as you
18 walk in, straight ahead towards the bed on the right. And
19 then Mr. Derrick was sitting, I believe, on a heater down
20 towards the left as you walk in.

21 Q On the left as you walk in?

22 A Uh-huh.

23 Q And during this time, when you walked in, what did
24 you notice when you first walked in?

25 A Noticed him sitting there, as I was getting Ms.

1 Couey, I believe, handcuffed, I observed a baggie that
2 looked like it contained a white substance in his hand
3 which he attempted to ditch.

4 Q Ditch, you mean drop?

5 A Just drop, yes.

6 Q After you got Ms. Couey in cuffs what happens next?

7 A We tried, I think we got one handcuff, another
8 officer got one handcuff behind Mr. Derrick and he
9 resisted after that.

10 Q How many officers did it take to finally get him
11 under?

12 A I think it was either four or five of us in there.

13 Q Did he have to be tased?

14 A Several times.

15 Q After the search of the camper did you initially find
16 smaller bags in the camper?

17 A I did.

18 Q And once the search was wrapping up, where was Mr.
19 Derrick the whole time the camper was being searched?

20 A He was on the ground just outside the door of the
21 camper laying on the ground in a puddle of urine.

22 Q His urine?

23 A I think it was in front of the camper.

24 Q Okay. And at the end of the search did you and other
25 officers attempt to search him again?

1 A We did, yes.

2 Q And why is that?

3 A Just because he wasn't searched due to urine on the
4 ground. He just refused to be searched, he kept flopping
5 around.

6 Q What was found in his pocket?

7 A A bag of methamphetamine.

8 Q How big a bag?

9 A I think it was, about 26 grams.

10 Q And that is the initial weight that y'all did with
11 the bag and everything?

12 A That's correct.

13 MR. BROWN: Judge, at this point I believe, with the
14 search warrant there and being able to look at the search
15 warrant and looking at the controlled buy; the search
16 warrant being issued by a magistrate finding probable
17 cause; Mr. Derrick being in the camper when the CI went in
18 to buy which is stated on video; and then execution of the
19 search warrant; there was probable cause for the lawful
20 execution and search of, not only the mobile home on this
21 property but 110 Barkwood Lane, the camper as well. It
22 doesn't have a unique address, it is all there on that one
23 property and so it was a lawful search.

24 THE COURT: Mr. Yarborough, you have any examination
25 of Chief Louis?

1 MR. YARBOROUGH: I do.

2 CROSS-EXAMINATION

3 By Mr. Yarborough:

4 Q Officer can we discuss, what was that camper like?

5 A As far as what?

6 Q Excuse me?

7 A What do you mean, what was it like?

8 Q I mean, it was a place where people were living?

9 A It looked like it, yes.

10 Q And it had a wooden pathway and stuff leading around?

11 A Yes.

12 Q And did you go in?

13 A I did.

14 Q And when you went in you looked to your right and I
15 think there is a kitchen and stuff over there. Well, I
16 can't remember if the kitchen is to the right or the
17 bedroom is to the left?

18 A I think the bedroom is to the right.

19 Q The bedroom is to the right and the kitchen is to the
20 left. But it was obvious that Mr. Derrick's sister and
21 somebody else were living there, right?

22 A It looked like it, yes sir.

23 Q And that was probably their primary home?

24 A I don't know, I don't know --

25 Q Did you participate in the search of the mobile home?

1 A I did not.

2 Q Well, so in the, you found clothes, things that
3 normal people would have in their household?

4 A Yes, sir.

5 Q Did you draft the affidavit of the search warrant
6 yourself?

7 A Let me see it again. I believe I did, yes sir, the
8 affidavit?

9 Q Yes.

10 A Yes, sir.

11 Q In that affidavit, I have got it. When was the, you
12 say there was a purchase made within 72 hours, when was
13 that purchase made?

14 A I don't have that report in front of me.

15 Q Okay. So you don't know if it was within 72 hours or
16 not?

17 A It was within 72 hours.

18 Q When was it made?

19 A I don't know. If I put in the affidavit then it is
20 within 72 hours.

21 Q Okay. And but was that confidential informant yours?

22 A We don't have set informants. It is, you know, they
23 are for the drug unit.

24 Q Do you remember when you wired them up?

25 A Right before they went over to 110 Barkwood.

1 Q And you don't remember if that was 48 hours, 72
2 hours. You don't remember --

3 A It was within that 72 hour period. I am not sure of
4 the --

5 Q You don't remember when?

6 A No, sir.

7 Q Okay. Do you remember the informant telling you that
8 they went in to a camper that was on the back part of the
9 property?

10 A Yes, sir.

11 Q And you looked at the, you have got a film of that,
12 right?

13 A Yes.

14 Q And you looked at the film and you saw that it was in
15 the back part of the property. Is that right?

16 A Right.

17 Q And there was a separate door that went in and out,
18 right?

19 A I just remember the front door on it.

20 Q There was a front door of the place and did you try
21 to find out what the address of that camper was?

22 A When we did the GIS it just showed the whole property
23 being 110.

24 Q Okay. So you just put down 110 as the property that
25 was addressed, without talking specifically about the

1 camper which is where the drugs were purchased, right?

2 A Correct.

3 Q You said that it was behind the residence, right?

4 A Correct.

5 Q Said the informant was equipped with the wire. Said
6 there was a purchase made and everything took place in the
7 camper that was back there that was outside of the address
8 that was listed on the property as 110 Barkwood Lane,
9 right?

10 A Yes, sir.

11 Q And there is no question, those were separate
12 buildings?

13 A Correct.

14 Q And they were approximately one-hundred yards apart?

15 A Probably so, yes.

16 Q Okay. Could you not have gotten a search warrant for
17 the camper?

18 A We included it on that search warrant, it was
19 included. It didn't have its own address so we included.

20 Q If you go to the search warrant itself, the search
21 warrant is for 110 Barkwood Lane, right?

22 A Correct.

23 Q And its, and it says it is a resident tan in color,
24 it is a doublewide, its a mobile home and it has got brown
25 trim. That is the mobile home, right?

1 A Correct.

2 Q And it has a covered porch, right?

3 A Correct.

4 Q But that is not where the drugs were bought?

5 A Correct.

6 Q The drugs were bought and I am assuming that what you
7 are saying, there was a mistake made and that where it
8 says white and tan in color is also located behind the
9 residence. It should have said something else?

10 A Yes, camper should be in there somewhere.

11 Q But what's outlined in Exhibit A in the search
12 warrant is the mobile home, right?

13 A And the camper.

14 Q Okay. So are you of the opinion you could write a,
15 if we had apartment 146A and apartment 146B and you wanted
16 to get a search warrant that you could write a search
17 warrant for both of them and put them in one deal?

18 A No, sir.

19 Q When 146B is where the drugs were bought?

20 A No, sir. If that camper had an actual physical
21 address on it it would have --

22 Q Did you check?

23 A Like I said, we looked at GIS and the whole property
24 was 110.

25 Q Did you check to find out if anybody was living in

1 that camper?

2 A No, I did not.

3 Q Did you check to see if that camper had been part of
4 any lawsuits or anything?

5 A No.

6 Q So you did nothing to check the separate location?

7 A Correct.

8 Q Now, you outlined in your description of the premises
9 you gave directions on how to get there. In the, when you
10 said at the end of your directions, you said, well let's
11 start. You go out 528 Edgefield Street but you say the
12 target location is on the right and that target location
13 is the mobile home, right?

14 A It just says target location so the property is on
15 the right. It didn't say mobile home or property or
16 camper.

17 Q In there it doesn't say anything about a camper
18 located on the back of it, right?

19 A Correct.

20 Q In fact, there is nothing in the description of
21 premises that ever uses the word, camper, until you get to
22 the very last line. That in my experience as a law
23 enforcement officer drug dealers keep drugs, money, guns,
24 scales and other paraphernalia inside the residence and
25 vehicle. You say that, it is reasonable to believe these

1 items will be found inside the residence, vehicles,
2 campers, curtilage or other buildings. Do you think you
3 could write a search warrant that would be that, if you
4 had like four or five, let's see, you used the words,
5 vehicles, camper, curtilage or outer buildings. Do you
6 think if you wanted to go to a farm you could write it for
7 the barn and all of that out there?

8 A If it is all on this same property, yes sir. You put
9 it as other buildings. Each barn has its own address.

10 Q You don't think you need to be more specific in
11 saying where. I mean, you knew?

12 A I knew what?

13 Q You knew at the time that your CI went in, you knew
14 where this was suppose to be and you got it for the mobile
15 home. You didn't get it for the camper?

16 A No, we got it for both.

17 Q In your property description you just talk about 110
18 Barkwood Lane, right?

19 A Yes, the address, correct.

20 Q And it was clear when you went in there were other
21 people living in that residence, right?

22 A There was clothes there, like I said, beds and
23 household stuff.

24 Q Okay.

25 MR. YARBOROUGH: Just a second, Your Honor.

1 THE COURT: Sure, take your time.

2 Q Did it appear that that was the full-time residence
3 or were you made aware before that, that the full-time
4 residence of Jamie Couey, were you made aware before you
5 did the search warrant that Ms. Couey's primary residence
6 was that camper?

7 A I don't believe I was, no.

8 Q Okay. But you would agree that it was surrounded by
9 built wooden deck and it couldn't be mobilized. Would you
10 agree with that?

11 A I agree with that, yes sir.

12 Q Okay. Would you also agree that it stuck in between,
13 outrun trees and it is rather hard to get to?

14 A I am not sure about the trees but it is hard to get
15 to.

16 Q Okay. You would agree with me it was a residence?

17 A It was a camper in the middle of the woods, sir. If
18 they were living in there, I mean people can live in
19 barns.

20 Q When you went in it looked like people were living
21 there?

22 A It looked like people were staying there.

23 Q Okay. Thank you.

24 MR. YARBOROUGH: Your Honor, I don't have anything
25 else.

1 THE COURT: Solicitor, any follow-up?

2 REDIRECT EXAMINATION

3 By Mr. Brown:

4 Q Mr. Louis, again, Exhibit A, you mentioned 110
5 Barkwood Lane, a doublewide and then left out the word,
6 camper. Is that right?

7 A Correct.

8 Q Did you also reference the camper and the reason for
9 the search warrant in the affidavit?

10 A Yes.

11 Q So you cross-referenced that, the description of the
12 property with the affidavit?

13 A Yes.

14 Q And also, Mr. Yarborough asked, did you check to see
15 if anyone was living there in that camper or was using it.
16 You did a controlled buy within the last 72 hours, is that
17 right?

18 A That is correct.

19 Q So you knew that, and through that video you knew
20 that Couey was there and Derrick was there?

21 A Yes, sir.

22 Q This wasn't just some shot in the dark, you had a
23 pretty solid round of searching?

24 A That's correct.

25 Q I believe that is it.

1 MR. YARBOROUGH: One question, Your Honor.

2 THE COURT: Sure.

3 RECROSS-EXAMINATION

4 By Mr. Yarborough:

5 Q Ms. Couey actually told you those were her drugs,
6 right?

7 A I am not sure on that.

8 Q You weren't aware that she wrote a statement saying
9 those were her drugs?

10 A I have to look at the statement.

11 MR. BROWN: Judge, I will answer, there was a
12 statement written by both, Mr. Derrick and Ms. Couey and I
13 think could be taking that a little bit out of context who
14 claimed what.

15 THE COURT: Chief Louis said he could not remember
16 without looking at the statement. Let me just ask you,
17 Chief. You said that, appeared to be that somebody was
18 living there. Could you determine who, in particular, was
19 living there?

20 A Just as we walked in, sir, both of them were in
21 there, both were in there during the buy as well.

22 THE COURT: Okay. The fact that both were in there,
23 is that telling you that they both live there.

24 A Or that is where they hang out and maybe do
25 narcotics.

1 THE COURT: Did you say that when you first went in
2 the camper Mr. Derrick was holding a bag?

3 A Yes, small bag, yes sir.

4 THE COURT: What appeared to be drugs?

5 A Yes, sir.

6 THE COURT: Now, is Chief Louis the witness for the
7 Jackson v. Denno?

8 MR. BROWN: Yes, sir. He is the one that actually
9 took Mr. Derrick's statement.

10 THE COURT: Okay. Well, let's get into that next.

11 DIRECT EXAMINATION

12 By Mr. Brown:

13 Q Chief Louis, this search warrant was issued again on
14 4/9/2018, is that correct?

15 A Yes, sir.

16 Q And after locating the drugs at 110 Barkwood Lane,
17 you and the other agents did arrest Phillip Derrick and
18 Jamie Couey?

19 A That's correct.

20 Q And on the next day, did you have the opportunity to
21 speak with Mr. Derrick and Ms. Couey?

22 A I believe I interviewed, I would have to, I am not
23 sure one-hundred percent, it has been so long.

24 Q Chief Louis, I am going to show you what has been
25 marked State's number 3 for ID purposes for this Jackson

1 V. Denno. I believe Defense has a copy of it. Take a
2 look at that. Now, Chief Louis, again, what is the date
3 at the top of this page?

4 A It is 4/10 of '18.

5 Q And this would have been the next day after the
6 arrest?

7 A Correct.

8 Q And the time?

9 A 09:12.

10 Q And place where it took place?

11 A This is at the Greenwood County Detention Center.

12 Q And this is a form of a voluntary statement?

13 A It is.

14 Q At the top, what is the name?

15 A Phil Derrick.

16 Q And just read what --

17 A I am 35 years of age. Date of birth is 2/25/83.

18 Present address is 110 Barkwood Lane. I can read and
19 write and have completed --

20 Q What is that address again?

21 A 110 Barkwood Lane.

22 Q Is that where the search warrant took place the day
23 before?

24 A It is.

25 Q Okay.

1 A I can read and write. I don't know what that says,
2 an associate degree in school. I am giving the statement
3 to Bryan Louis who has identified themselves as agent and
4 has been duly sworn and advised me.

5 Q So that statement was given to you?

6 A It was.

7 Q In your presence?

8 A Yes.

9 Q Now, after that initial part showing his age and his
10 date of birth and his residence. What did you have the
11 opportunity to do further on this page?

12 A Mirandized him.

13 Q And what did you read him?

14 A Lines one through seven.

15 Q What do they say?

16 A You want me to read all of them.

17 Q Yes, sir.

18 A I have the right to remain silent. Anything I say
19 can and will be used against me in a court of law. I have
20 the right to talk to a lawyer.

21 COURT REPORTER: Wait --

22 THE COURT: A little fast.

23 A Okay. I am from New York, I am sorry. I will start
24 at line one again.

25 THE COURT: Yes.

1 A I have the right to remain silent. Anything I say
2 can and will be used against me in a court of law. I have
3 the right to talk to a lawyer and have him present with me
4 while I am being questioned. If I cannot afford a lawyer
5 one will be appointed to represent me before any
6 questioning if I wish. I can decide at any time to
7 exercise these rights and not answer any questions or make
8 any statements. I understand my rights, having my rights
9 in mind, I am waiving my rights and giving this statement.

10 Q And did Mr. Derrick sign that, the person giving the
11 statement?

12 A He did.

13 Q What did he write after, after being Mirandized.
14 Obviously he was in custody at that time?

15 A That's correct.

16 Q But you, in fact, did read him his Miranda rights and
17 he understood what he was doing?

18 A Yes, sir.

19 Q What did he write?

20 A He wrote, the dope found in camper belonged to Jamie
21 Couey.

22 Q Is that all he wrote?

23 A That's it.

24 Q Did he mention anything in his pocket?

25 A No.

1 Q He doesn't say the dope in my pocket belonged to
2 Jamie Couey?

3 A Did not.

4 Q Just the dope found in the camper?

5 A Correct.

6 Q Did he give any other statements other than that
7 written statement?

8 A No, not that I am aware of.

9 Q And, again, to be clear, he was under arrest, he was
10 being detained, and you did read him his Miranda rights?

11 A Yes, sir.

12 Q And he freely and voluntarily gave this statement?

13 A Yes, sir.

14 Q Did you threaten him, coerce him, promise him
15 anything to give that statement?

16 A No.

17 Q Did you intimidate him in any way?

18 A No.

19 Q Deprive him of any food or water?

20 A No.

21 Q Make any promises about his family?

22 A No.

23 Q So it was freely and voluntarily made?

24 A Yes.

25 Q Okay. No further questions.

1 THE COURT: Mr. Yarborough.

2 CROSS-EXAMINATION

3 By Mr. Yarborough:

4 Q You were there, were you the first one in the, in the
5 camper?

6 A Yes, sir.

7 Q And when you went in, you didn't have the search
8 warrant with you, right?

9 A No, I don't believe I did.

10 Q And you went in, he asked you at that point to show
11 him the search warrant, right?

12 A I don't remember that.

13 Q But he also did something else. He said, look, if
14 you are not going to show me the search warrant I want a
15 lawyer, right?

16 A I don't know that.

17 Q You don't remember him saying he wanted a lawyer?

18 A No, sir.

19 Q Did you get him a lawyer?

20 A At no time, no. I didn't get him an attorney, no.

21 Q Okay. I don't have any further questions.

22 THE COURT: Solicitor, anything in redirect?

23 REDIRECT EXAMINATION

24 By Mr. Brown:

25 Q In addition to the Miranda warnings given on

1 4/10/2018, do you remember you or another officer at the
2 execution of the search warrant, the day before actually
3 Mirandizing both he and his sister?

4 A Miranda is always read at the beginning of the search
5 warrant before it is executed.

6 Q At the beginning or after you get them under, in
7 custody?

8 A At the beginning, we didn't ask him any questions out
9 there but at the beginning we always read them Miranda
10 rights.

11 Q After the location is secure and controlled?

12 A Correct.

13 Q So you don't read it before you go into a building?

14 A I do not.

15 Q You read after everybody is safe and secure?

16 A Correct.

17 Q No one can be harmed. And I point you to the
18 direction of page three of four on the supplemental
19 report, about the middle of the page. I think the line
20 starts off, the search warrant was executed by?

21 A Captain Bishop. And Bishop advised all subjects of
22 their legal rights and a search of the camper was then
23 conducted.

24 Q So not only in addition, or on 4/10 that his Miranda
25 warnings were given, they were also given at the execution

1 of the search warrant?

2 A That's correct.

3 Q No further questions.

4 THE COURT: Anything in recross?

5 MR. YARBOROUGH: No, sir.

6 THE COURT: Any other pretrial matters that we need
7 Chief Louis' testimony on?

8 MR. BROWN: Judge, I don't think this will be much of
9 an issue. This goes to the chain of custody with more of
10 the SLED, the internal SLED agents. Chief Louis is the
11 one that actually collected all of these items. You can
12 see him on the body cam bagging it up and he checks it
13 into the Greenwood County Detention Center. So he is the
14 start of the chain so I don't think he will be an issue
15 with that.

16 THE COURT: Mr. Yarborough, is it going to be any
17 issue from the Defense as is related to the chain of
18 custody concerning the drugs?

19 MR. YARBOROUGH: Your Honor, it is a little early for
20 me to guess on chain of custody issues. I mean --

21 THE COURT: I mean, that is assuming, that is
22 assuming that I deny your motion for suppression.

23 MR. YARBOROUGH: So are they saying they are not
24 going to charge, they are not going to recall --

25 THE COURT: If I deny your motion for suppression and

1 we go forward with the trial. And when it is time, you
2 know, put the drugs into evidence that the State offers,
3 then if there is an issue with the chain then, of course,
4 we will deal with it. I just didn't know, you had kind of
5 any idea about where you may be headed.

6 MR. YARBOROUGH: I am not aware at this time of a
7 chain of custody issue. He keeps talking about SLED. I
8 see three guys listed from SLED. I think somebody is
9 going to show up.

10 MR. BROWN: The actual chemist is going to be there
11 and she will say it was moved from evidence locker,
12 whatever, Doris Yarborough and Charlotte Pitts moved it,
13 she can identify them and then she can testify. So it
14 would be those two.

15 THE COURT: What you are saying is, there is probably
16 one administrative person at SLED that would not be here
17 to testify.

18 MR. BROWN: Two, Doris Yarborough and Charlotte
19 Pitts.

20 THE COURT: Well if it is an issue certainly we can
21 deal with it.

22 MR. BROWN: Yes, sir.

23 THE COURT: You can step down. Any other witnesses
24 from the State as it relates to suppression and Jackson v.
25 Denno?

1 MR. BROWN: Judge, we have Wes McClinton in the back,
2 he was the other main officer that went in during the
3 execution of the search warrant. But as far as the search
4 warrant being typed up and the back history, Agent Louis
5 or Chief Louis was the main one on that. I don't know if
6 it is necessary for him to be called right now or not. He
7 was there for the execution of it obviously.

8 THE COURT: Okay. Mr. Yarborough, do you intend to
9 put anything up as it relates to the issue of suppression
10 and Jackson v. Denno?

11 MR. YARBOROUGH: I don't at this time, Your Honor, no
12 sir.

13 THE COURT: Okay. Thank you. All right, let me go
14 ahead and deal with the Jackson V. Denno. I find that the
15 statement was voluntarily made by the Defendant and that
16 Miranda was complied with. So I find that the statement
17 is admissible into evidence. And, of course, if the case
18 gets to a jury trial, I will certainly give them the
19 charge that relates to the statement. Now, as it relates
20 to supression, are we aware of any cases that deals with
21 campers. Have you taken a look at that. I mean, I kind
22 of know how I am leaning but I just didn't know if any of
23 you folks had a chance to take a look to see if the issue
24 of a camper with the same physical address has ever been
25 litigated or not. And if not, what I will probably want

1 to do is take that issue under advisement and do a little
2 research and see if there is anything, if there is
3 anything out there.

4 MR. YARBOROUGH: Your Honor, I would argue that it is
5 a Fourth Amendment, the Fourth Amendment protects that
6 issue unless it is considered curtilage and I don't think
7 that is curtilage. I would suggest that the Court look at
8 State versus Crane and the cases that came after that. I
9 think that is, let me just give you the Southeastern.

10 THE COURT: What is the Defendant's name in that
11 case?

12 MR. YARBOROUGH: Crane, C-R-A-N-E. In that case, the
13 Court did uphold the search warrant but there is some
14 interesting, there is some language in there, it gave more
15 than just the direction to the house and describing and
16 designated as a residence. I think the issue becomes
17 this, Your Honor, is that, I think everybody was aware
18 that that camper, at least from the testimony we have
19 heard today, that the camper was a residence of some
20 individual staying there. It wasn't just, it wasn't just
21 something that was behind the house. Now, I think that,
22 Mr. Brown may be right, if it is just a camper in the back
23 yard, you might be able to search it. But here there is a
24 separate resident. He described, the witness testified
25 that somebody was living there, there was stuff, furniture

1 in there; there was food, the things that he said. It is
2 definitely, it is not, you know, just a camper that
3 somebody hooks up to their trailer and hauls off. This
4 thing has got wood around it and as he described it, it
5 wasn't going anywhere, it was not going to be moved. So
6 it is, it is protected by the Fourth Amendment. I would
7 ask the Court to look at that case.

8 THE COURT: What is the cite on it.

9 MR. YARBOROUGH: It is 296 SC, SE 336. And I would
10 ask the Court to look at, if the Court does say that that
11 camper behind there was a home which I think we would
12 allege from the testimony that was before the Court, that
13 United States versus Karo, 468 US 705.

14 THE COURT: Give me the cite again.

15 MR. YARBOROUGH: 468 US 705, it is a 1984 case.
16 Accordingly searches and seizures inside a home without a
17 warrant are presumably unreasonable absent exigent
18 circumstances. Here we don't have any exigent
19 circumstances, they knew what they were dealing with and
20 they didn't, they didn't do anything, they could have
21 separated it out and they didn't do it. What they want to
22 rely on is there was some type of mistake in the drafting
23 of the affidavit to the search warrant. I will give them
24 the benefit of the doubt, it is a mistake. I am not
25 worried about the mistake as much as I am worried about

1 the fact that they knew that was a home where they were
2 going. I would also, the Fourth Amendment extends the
3 same protection to outbuildings and curtilage of a home,
4 that is United States versus Dunn, 480 US 294. General
5 rules about search warrants directed against a multi-unit
6 structure is invalid where it fails to describe with
7 particularity subunits or units to be searched with
8 sufficient definiteness to preclude a search of other
9 units located in a larger structure. And that is State
10 versus Ellis, 263 SC 12. I think, I can give you a couple
11 of other ones. United States versus Owens, 484 F.2nd at
12 462.

13 THE COURT: Give the last one again you just
14 mentioned.

15 MR. YARBOROUGH: 484 F.2nd 462, that is a Fourth
16 Circuit case. And that cites back to the Steel versus
17 United States which is an older case. I am not, I
18 wouldn't try to give you any case law about search
19 warrants, I think the Court is well aware.

20 THE COURT: Okay. Does the State have any, I am
21 going to take it under advisement just so we can kind of
22 look at some of this stuff. Is the State prepared to
23 offer any cases that would be supportive of the State's
24 position?

25 MR. BROWN: State v. Williams. 297, SC 404.

1 THE COURT: 297 SC 404. Okay.

2 MR. BROWN: I think it actually cites to State v.
3 Ellis and State v. Crane also.

4 THE COURT: What we are going to do, we will take a
5 look at this and if you come across anything else that you
6 feel like would be helpful to your respective positions,
7 try to get something to me and Mary Madison and we will
8 reconvene this in the morning.

9 MR. BROWN: And, Judge, I would just, again, the face
10 of that search warrant and the affidavit, the Exhibit, it
11 does specifically mention the camper in there. And I
12 believe back, if I am not mistaken the property is
13 actually in Phillip Derrick's name back then at 110
14 Barkwood Lane.

15 THE COURT: You are telling me that is the case or
16 you are thinking that?

17 MR. BROWN: According to the Greenwood GIS and I can
18 go downstairs and pull the deed. The sale date was
19 7/18/2018. This would have been on 4/9/2018 and his name,
20 Phillip Derrick is the seller.

21 MR. YARBOROUGH: I think there was a lawsuit that was
22 filed, where the resident of that home sued Mr. Derrick to
23 be able to keep custody of that house.

24 THE COURT: Here is what I am going to do, as far as
25 the suppression hearing, I am going to leave the record

1 open. If you come up with anything else that would need
2 to be marked as an Exhibit then I will allow that to
3 happen. Any other pretrial matters, the chain will
4 probably not be an issue but it could be. Anything that
5 the lawyers are aware of, pretrial?

6 MR. BROWN: Judge, I think that is it.

7 MR. YARBOROUGH: I think that is it, Your Honor.

8 THE COURT: Okay. Well let's get back together at
9 9:00 on the suppression hearing and we will go from there.

10 MR. YARBOROUGH: Thank you, Your Honor.

11 THE COURT: Thank you.

12 August 2, 2022

13 THE COURT: Let's go back on the record and talk
14 about the suppression motion that we had yesterday. Does
15 the State have any additional information or additional
16 argument on the issue of suppression?

17 MR. BROWN: Yes sir, Judge. Yesterday we did put on
18 the record about the case we were relying on, State v.
19 Williams with the cite, 297 SC 404. And basically looking
20 at that, you read the whole search warrant together.
21 Looking at the affidavit, the description of the property.
22 In this case the search warrant clearly states that
23 property, was to be searched at 110 Barkwood Lane. It
24 does state the camper, there was a scrivener's error where
25 the camper was actually left out of the one sentence but

1 you can clearly see that is what it was referring to. And
2 later on in that same body it does say, camper. And in
3 the affidavit it does say what that whole search warrant
4 is based off of is the drug buy at that camper. Also,
5 Judge, after we broke yesterday afternoon, I think I had
6 actually told this to Your Honor and when Mr. Yarborough
7 was here. Looking at the Greenwood GIS, it was apparent
8 that Mr. Phillip Derrick is actually the owner or was the
9 owner of 110 Barkwood Lane. Did go downstairs yesterday
10 afternoon and it appears that Mr. Derrick was the owner of
11 that property and actually this was filed with the Clerk
12 of Court on 5/13/2014 where Mr. Phillip Derrick was the
13 owner of 110 Barkwood Lane, Greenwood, South Carolina. So
14 I would like to make that State's --

15 COURT REPORTER: State's 25.

16 MR. BROWN: And then in addition, Judge, yesterday I
17 was arguing that the camper would not have an individual
18 address if somebody was staying in that. And actually per
19 Greenwood County zoning ordinance, 63-145, section C of
20 that ordinance, it actually talks about parking or storage
21 of unlicensed vehicles, construction, trucks and trailers;
22 and the provision in that order that says, not more than
23 one traveler or camping trailer per family living on the
24 premises shall be permitted on a lot in any residential
25 district. And a trailer shall not be occupied temporarily

1 or permanently while it is parked and stored. So it would
2 have been illegal anyway for somebody to be living in the
3 camper. It would not have its own individualized address.
4 The search warrant does clearly say the camper for the
5 search, it was in our opinion a lawful search for Mr.
6 Phillip Derrick. And also, one point during the argument
7 yesterday by the Defense, I think it was mentioned at one
8 point that he said he didn't live there which in contrast
9 he is the owner of that property, the property on that
10 site. So, Judge, that would be our argument as to why the
11 search warrant was valid.

12 THE COURT: Did you have that ordinance marked as an
13 Exhibit?

14 MR. BROWN: Yes sir, I will. Again, it is 63-145
15 subsection C would address that.

16 THE COURT: Mr. Yarborough, do you have anything in
17 addition to what was presented yesterday?

18 MR. YARBOROUGH: Yes sir, Your Honor. I went down
19 yesterday, after discussing this with my client and he
20 informed me that an individual by the name of Franklin
21 Spells.

22 THE COURT: He is one of your potential witnesses,
23 right?

24 MR. YARBOROUGH: He is. He had actually sued Mr.
25 Derrick and Jamie Couey, which is his sister, over the

1 ownership of that camper. And he was the Plaintiff in the
2 claim and delivery action in 2014 and at that time the
3 Magistrate that that camper belonged to Mr. Spells. It
4 didn't belong to Ms. Couey or Mr. Derrick. And so I just
5 put that, have it marked.

6 COURT REPORTER: Judge, I am marking these last two
7 as State's exhibits or do you want them as Court's
8 exhibits?

9 THE COURT: They really, the Exhibits for purposes of
10 this hearing really need to be Court's exhibits and then
11 if any of these exhibits come into trial then, of course,
12 they would be either be State's or Defense. So I think
13 for purposes of this hearing might need to be Court's.
14 Does anybody have any objection to that?

15 MR. BROWN: No, sir.

16 MR. YARBOROUGH: No sir, Your Honor.

17 (Whereupon, Court's Exhibits 1, 2 and 3 were marked
18 as identification only.)

19 THE COURT: Anything further, Mr. Yarborough?

20 MR. YARBOROUGH: Just a second.

21 THE COURT: Sure, take your time.

22 MR. YARBOROUGH: Your Honor, if the Court please,
23 going back to my argument. It appears from the tape that
24 we put into evidence late yesterday afternoon, that camper
25 was an isolated part separate from anything that was

1 attached to the mobile home. And in furtherance of that,
2 what I just handed up to the Court, when the claim and
3 delivery action was ruled with Mr. Spells winning as the
4 Plaintiff, then the question becomes this. The ability to
5 search, if Mr. Derrick would have had the ability to allow
6 the police into that camper then perhaps then he could
7 have asserted some ownership in it. But since that camper
8 was not owned by him and was a separate part of that
9 property, he did not have any ownership interest in it,
10 thus they had to have a separate search warrant in order,
11 if there was a buy either from Ms. Couey or Mr. Derrick,
12 they had to have a separate search warrant for that spot
13 because he didn't have any ownership interest. They had
14 to show why the other individual had not given consent to
15 search, that individual would have had to be given consent
16 to search. And in this case that didn't happen. I mean I
17 think the Court understands my argument.

18 THE COURT: I understand exactly your argument.
19 Solicitor, you are standing.

20 MR. BROWN: Judge, just on that, if we are going with
21 that theory then Mr. Derrick wouldn't have any expectation
22 of privacy, he wouldn't have actually a leg to stand on to
23 object to that search if he didn't own it. But he was in
24 there and he was there actually during the CI buy, he had
25 custody and control over that building, it is on his

1 property. So I think either way you cut this, the search
2 is good.

3 THE COURT: What I have to make a determination is
4 whether or not there was probable cause for the
5 Magistrate, I assume it is Magistrate or City Judge to
6 believe that drugs would be found in the camper and
7 therefor authorizing a search and seizure, search of the
8 camper and any seizure of any drugs. That is what I have
9 got to look at. I think several factors are important
10 here. The fact that the camper is where the CI buy took
11 place. It was mentioned that Mr. Derrick was present
12 during the CI buy, fairly reflective in some video that
13 maybe the State has. The address for the entire property
14 where the camper was situated is 110 Barkwood Lane as
15 reflected in the search. And I think it has already been
16 acknowledged and I don't think the Defense has any contest
17 to the scrivener's error where the camper, right after the
18 white and tan description, the word camper is omitted.
19 And the use of the word, camper, is used also in the
20 affidavit and the warrant itself. And as State versus
21 Williams case reflects, those documents are to be read
22 together. Also the fact that the search warrant was
23 issued within 72 hours of the CI buy. And lastly, before
24 I address several cases that I came up with. And I think
25 it is interesting and I am not so certain that residents

1 in the camper is really that important nor I don't think
2 ownership necessarily is that important. But even though
3 Chief Louis, several times stated that it appeared that
4 someone was living in the camper in response to one of the
5 Court's questions, he said, well yes it appeared that
6 someone was living in the camper or, or it was a place
7 where they were doing their drugs. I don't know how
8 significant that is but I am just making that observation.
9 And I don't think that two, under any circumstances, two
10 warrants would be needed in this case, if there was
11 probable cause to believe that the camper had some drugs
12 in it. I think that is what is important. The State
13 versus Driggers refers to a Washington case that there was
14 one search warrant for two separate apartments. And I
15 think Mr. Yarborough, in making your argument yesterday,
16 you used that as an analogy. At least in that particular
17 case one warrant for two apartments was admitted. U.S.
18 versus Bennett case, a Fed 3rd cite, 170 F.3rd 632 says
19 description in the search warrant was sufficient to
20 authorize search of both the residence and a shop
21 building. I realize there is some, maybe difference,
22 between shop building and camper. The shop building was
23 located approximately 60 to 100 feet away from the
24 residence. The warrant stated the shop building. And
25 that is the key. If the warrant or affidavit never

1 referred to camper then I think we have a problem. But it
2 allowed the search of the shop building because it was
3 named in the warrant finding that the shop building was
4 within the curtilage of the residence. And then a case, a
5 Michigan case, People versus Derausse, and that is
6 D-E-R-O-U-S-S-E. And it says it is permissible to put in
7 one search warrant the main house and all outbuildings
8 within the curtilage of the main house. U.S. versus
9 Campbell, another Federal case, permitted one search
10 warrant for the mobile home, the residence and a smaller
11 mobile home and a shed all within the curtilage of the
12 main house. And lastly, State versus Williams. As the
13 State has argued, alludes the fact that in determining
14 whether or not the search warrant is valid, you read the
15 search warrant in the affidavit together. Consequently I
16 find that the search warrant was proper and authorized the
17 search of the camper and seizure of any drugs found. And
18 I will deny the motion for suppression that has been
19 raised by the Defense. Anything further pretrial before
20 we get cranking in this case.

21 MR. BROWN: Yes sir, Judge. One thing, I wanted to
22 make a motion in limine. As we eluded to yesterday in the
23 Jackson v. Denno of Phillip Derrick which Your Honor has
24 already ruled on.

25 THE COURT: Right.

1 MR. BROWN: His sister, Jamie Couey also gave a
2 written statement. Jamie Couey's charges have been moved
3 to failed to appear, after she failed to appear we got
4 bench warrants on her and she has not been picked up. Her
5 statement to Bryan Louis and I will just put it on the
6 record, is all the drugs and narcotics located inside the
7 camper at 110 Barkwood Lane belonged to me and not my
8 brother, Phillip Derrick. I accept full responsibility
9 for all items found by DEU on 4/9/18. I am unable to sign
10 my name due to a hand injury but will sign with an X.
11 Judge, that would be a classic hearsay statement and so I
12 would make the motion to limit touching on that since she
13 is not here, has not made herself available. We have
14 actively gotten warrants for her and she is eluding law
15 enforcement.

16 THE COURT: Mr. Yarborough, is it the intent of the
17 Defense to try to get into Jamie's statement in some way.
18 I mean, I realize you have Jamie as a potential witness in
19 your case which would definitely mean live testimony. But
20 are you planning to get into her statement?

21 MR. YARBOROUGH: I was going to ask the officers if
22 pursuant to their investigation, they determined that
23 someone else had claimed the drugs. I was going to ask
24 that question.

25 THE COURT: I think that would be permissible without

1 Mr. Yarborough saying, Chief Louis, did Jamie Couey submit
2 a written statement saying she owned the drugs.

3 MR. BROWN: I don't think that is what that statement
4 says. I think she says, the drugs in the camper. I don't
5 think she said, what is in his pocket.

6 THE COURT: Read the statement again.

7 MR. BROWN: All the drugs and narcotics located
8 inside the camper at 110 Barkwood Lane belong to me and
9 not my brother, Derrick, Phillip Derrick.

10 THE COURT: Right. I think if you were to ask did
11 someone else claim ownership of the drugs in the camper,
12 which would be consistent with the statement, I think that
13 would be permissible. Would you have any objection to
14 that, without identifying Jamie?

15 MR. BROWN: I still think that is going to go into a
16 hearsay statement that we can't cross her on. And I don't
17 know why she would have given that statement. I don't
18 know, there is a lot that I can't ask that question on and
19 it leaves a lot open for me not to be able to question her
20 on. And she does have pending charges. It is kind of
21 self-serving for her and essentially with his statement
22 that I will be introducing as well. I mean, its, I
23 understand she is under subpoena by the Defense --

24 MR. YARBOROUGH: I didn't mean to cut you off. I
25 think it would be reasonable for me to be able to ask what

1 the investigation reveal. I am not asking for a hearsay
2 statement. I am saying, did y'all investigate and did
3 someone else claim the drugs and the camper, just as that
4 statement did. Yesterday he went to great lengths to say
5 that, that Mr. Derrick's statement should be admitted
6 where Mr. Derrick said that the drugs that were in the
7 camper were not his. And so I mean, its good for the
8 goose is good for the gander. He has already gone down
9 this road yesterday and now we are back here again and he
10 wants to --

11 THE COURT: Let me just kind of, let me have that
12 statement, Solicitor, and let me just think on it. Are
13 you planning on calling Chief Louis as your first witness?

14 MR. BROWN: Yes, sir.

15 THE COURT: Okay. Let me just think on that and
16 before we get to cross-examination of Chief Louis then I
17 will make a decision on what you can do.

18 MR. YARBOROUGH: Your Honor, depending on your
19 ruling, we may have an issue because Jamie Couey is under
20 subpoena, we issued the subpoena for her. She has been
21 very aggressively with my office that she is not coming.
22 I didn't know until I got down here that she had a bench
23 warrant. So that kind of, she didn't tell me that but we
24 may get into a position that we would ask the Court to
25 send somebody out to get her.

1 MR. BROWN: And that would open up a whole other box
2 of worms as well. It is my understanding yesterday
3 morning she called the Clerk's office and says, I ain't
4 coming. So we relayed that to Mr. Yarborough. The other
5 issue would be, she does have, if she is picked up on a
6 bench warrant we are going to open those charges back up.
7 They are on failed to appear so they would be reopened.
8 So at that point I don't know how Mr. Yarborough can call
9 her and force her to take the stand as she would have the
10 Fifth Amendment right to remain silent since she would
11 have charges as well. So we would be in a real --

12 THE COURT: Well, we will just have to cross that
13 bridge when we get to it. Two things, one is that Mr.
14 Yarborough has a witness under subpoena who is not
15 cooperating and think I am obligated to assist as I would
16 if you have somebody under subpoena and they are not
17 cooperating then I have an obligation to assist you. So,
18 and two, you are telling there are outstanding bench
19 warrants. I think I have an obligation to see that those
20 bench warrants are executed. Now, she is picked up and
21 brought into court to testify, then we will just have to
22 deal with it. It is, do you know whether or not, you say
23 the charges were dismissed with lead to restore. Is that
24 what you are telling me?

25 MR. BROWN: They are, they are failed to appear, so

1 they are.

2 THE COURT: And so I guess currently she doesn't have
3 a lawyer because the charges, I would advise her,
4 concerning her Fifth Amendment rights, concerning
5 self-incrimination, she can then make a decision on what
6 she wants to do.

7 MR. BROWN: And, Judge, just to be clear, I would
8 love her to be picked up. I think she needs to be here
9 because she has been subpoena and also she has got a bench
10 warrant. So I don't want that to be conveyed that I am
11 trying to prevent her from being here.

12 THE COURT: No, no.

13 MR. BROWN: But just bringing to the Court's
14 attention.

15 THE COURT: And we will have to just deal with it
16 when she is picked up. What I am going to go ahead and do
17 is, do we know where she is at? Do we have an address?

18 MR. YARBOROUGH: I can get my office, I can --

19 THE COURT: Let's just take a little break and let's
20 get the jury into the jury room. And then --

21 MR. BROWN: Judge, it looks like she has got the
22 Public Defender's office. She had Walt Whitmire at the
23 time. Now and obviously he is not here anymore.

24 THE COURT: I doubt it is an active, can y'all take a
25 look at your records, Colie or Don, can you look up Jamie

1 Couey, that is C-O-U-E-Y, Jamie. Check and see if she in
2 your system.

3 Let's go back on the record. I am going to issue an
4 order, ordering her to be picked up and I trust, Mr.
5 Yarborough, you are certain that she was served with a
6 subpoena?

7 MR. YARBOROUGH: I am certain.

8 MR. BROWN: Then I trust you as an officer of the
9 court, instead of her being picked up on the bench
10 warrant, she is going to be picked up on my order because
11 she is under a valid subpoena and has given indication she
12 is not going to show up. So we are not going to pick her
13 up on the bench warrant currently. The bench warrant is
14 going to be effected after she comes in and testifies.
15 Probably what I will do, when she is picked up, I will ask
16 that you and somebody at the PD office sit down and talk
17 with her, not officially appointing you yet but the fact
18 they are going to reinstate charges. Let's be at ease and
19 let's get the jury in the jury room and we will proceed
20 forward.

21 (Whereupon, a short break was taken.)

22 THE COURT: We are on the record, anything before we
23 bring the jury out and get started from the State?

24 MR. BROWN: Not from the State.

25 THE COURT: And from the Defense?

1 MR. YARBOROUGH: No sir, Your Honor.

2 THE COURT: Let's bring the jury out, please.

3 (Whereupon, the jury came into open court at
4 approximately 10:00 a.m.)

5 THE COURT: Good morning, ladies and gentlemen. Just
6 a couple of housekeeping matters and then I am going to
7 give you some instructions. Madam Clerk, will you swear
8 the trial jury in, please.

9 CLERK OF COURT: Yes, sir.

10 (WHEREUPON, the jury was sworn at approximately 10:01
11 a.m.)

12 THE COURT: Ladies and gentlemen, I need to appoint a
13 Foreperson of the jury, if it is a male it is called a
14 Foreman, makes sense; if it is a female it is called a
15 Forelady. Let me tell you what a Foreperson of the jury
16 does. First of all, I need someone to serve as
17 spokesperson between the jury and the Court. And if at
18 any time there is an issue or question or something that
19 needs to be brought to my attention then I need someone to
20 handle that responsibility; whether it is during the
21 course of the trial or when you begin your deliberations.
22 Any communication between the jury and the Court needs to
23 be in writing and signed by the Foreperson. Secondly, I
24 need someone to make sure that all of my instructions is
25 being followed. That is really everybody's responsibility

1 but primarily the Foreperson, such as my instruction not
2 to begin any discussions about this case and other
3 instructions that I have given you or will give you. And
4 thirdly, when I give you the case to begin your
5 deliberations in order to reach a unanimous verdict then I
6 need someone to get those deliberations started and
7 oversee those deliberations until a verdict is reached by
8 the jury. Now, I am confident that all 14 of you would
9 make excellent Forepersons but I can only have just one
10 Foreperson. So I am selecting Mr. Sellers, I believe that
11 is you, sir?

12 MR. SELLERS: Yes, sir.

13 THE COURT: You are the Foreperson Foreman of the
14 jury. When you come back out after a break you will sit
15 here where this young lady is. You will maintain that
16 seat throughout the entire trial. My two alternates, Moss
17 and Hoskins, you are seated in the correct seats as
18 alternates. And let me explain the role of the alternate.
19 Your role is very important. It is not unusual that
20 during the course of the trial that one of the 12 becomes
21 ill, has an emergency at home or something of that nature
22 and I need to excuse that person from the jury. I need
23 someone to fill those shoes, someone who has sat through
24 the entire trial, up until that point and has heard all of
25 the evidence and to fill those shoes. So your role is

1 very important. If I don't have to excuse any of the 12
2 then, of course, you would not participate in the
3 deliberations. But your role is very important. Now,
4 everybody else, you can sit where you would like. Now
5 most of the time, it has been my experience, that jurors
6 like to keep the same seat, kind of like at church. You
7 have got your same place where you sit. But that is
8 totally up to you, where ever you want to sit. But the
9 Foreperson and alternates have their designated seats.
10 Now, I don't like to go past about an hour and a half
11 before we take a break. But if at any time you need to
12 take a break before we take one, all you have to do is
13 raise your hand, that will be the queue to tell me let's
14 go ahead and take a break now. Okay. And if you want to
15 bring, if you are drinking water or coffee or soft drink
16 or whatever you are welcome to bring it out here with you,
17 don't bring any snacks with you but you can bring
18 something to drink if you like. Now just a couple of
19 instructions before I turn it over to these good lawyers.
20 It is very important that you be very attentive throughout
21 this entire trial. Make sure you get good rest at night
22 so you will be alert and attentive during the day. I
23 don't allow note-taking. I have found that jurors taking
24 notes are paying more attention to the note-taking than
25 they are listening to a witness on the witness stand or

1 some argument from counsel. So if you are alert and
2 attentive then when I do give you the case to begin your
3 deliberations collectively you ought to have a really good
4 memory on what has been presented to you. So be alert, be
5 attentive. There is nothing worse for me as a Judge to
6 look over at the jury, and I keep my eye on the jury on a
7 regular basis throughout the trial, if I see a juror
8 nodding off or I even have had jurors actually asleep.
9 And that is not a good thing so make sure you get some
10 good rest. Okay. I told you yesterday, briefly, about
11 not going on the internet or social media and doing any
12 research about anything related to this case. I actually
13 had a case in Laurens several years ago, had three jurors
14 disregard my instructions and actually Googled the
15 Defendant's name and received some information they
16 shouldn't have received. Your verdict has to be based
17 one-hundred percent what is brought out in this courtroom.
18 So if you are out doing your own research and getting
19 information, while that information is more than likely
20 not direct information, it is information that has not
21 been brought out in this courtroom for the benefit of the
22 14 of you. So during the course of this trial don't do
23 any of that. After the case is over with, if you want to,
24 that is fine with me but during the course of this case do
25 not do it. Because a violation of the Court's order can

1 result in contempt of court and that is not a good thing.
2 Okay. Keep an open mind, don't make any rash judgments or
3 quick judgments about this case. Wait until all of the
4 evidence is in and the lawyers have made their closing
5 arguments and I have instructed you what the law is that
6 applies to this case. So keep an open mind. Understand
7 that as Mr. Derrick sits in this courtroom right now, he
8 is presumed innocent of the charges that have been made
9 against him. And it is on the burden of the State of
10 South Carolina to prove the case to you beyond a
11 reasonable doubt and I will explain all of that to you at
12 the appropriate time. So just keep that in mind as we go
13 through this case. Now, the lawyers are going to give
14 their opening arguments to you. Their opening arguments
15 are not evidence. It is just what they believe this case
16 is about and what they believe the evidence will show in
17 this case. Is the State ready?

18 MS. HOFFMAN: Yes, sir.

19 THE COURT: You may proceed.

20 MS. HOFFMAN: May it please the Court. Good morning,
21 ladies and gentlemen. Today we are here because the
22 Defendant, Phillip Derrick, has been charged with
23 trafficking of methamphetamine, 28 grams or more and
24 possession of alprazolam. And so today through the
25 evidence and the testimony, you are going to hear, you are

1 going to learn that leading up to the date of April 9th of
2 2018 the Greenwood County Sheriffs Department organized
3 what is called a control buy, a controlled drug buy. And
4 they used a known confidential informant, that
5 confidential informant went to a location here in
6 Greenwood County located at 110 Barkwood Lane here in
7 Greenwood County at a property owned by Phillip Derrick.
8 When she got to that location she went into a small camper
9 located there on the property and inside that camper was
10 the Defendant, Phillip Derrick and his sister, Jamie
11 Couey. When she got inside that camper she bought drugs.
12 Now, after that happened law enforcement got a search
13 warrant and they went back on April 9th of 2018 and they
14 executed that search warrant. They were able to go to the
15 main property, the main house to that location and they
16 went back to the camper where once again they found Jamie
17 Couey and Phillip Derrick. When they got into that camper
18 they detained Ms. Couey and they tried to detain Mr.
19 Derrick. But upon trying to detain him he started to
20 struggle a little bit. In fact, it took three or four
21 officers to get him down and they had to use a taser three
22 or four times in able to finally get handcuffs on him.
23 Now, after they did that, he finally started to calm down,
24 they sat him down on the ground and they noticed that he
25 kept laying on his side, he wouldn't sit up, laying on his

1 side on the right side. Law enforcement did an initial
2 pat-down of him to make sure that he didn't have any
3 weapons, to ensure officers safety. They went back into
4 the camper, they found some small baggies of meth and some
5 alprazolam pills. When it was time to transport Mr.
6 Derrick they went back to him and informed him they were
7 going to need to search his person to be able to transport
8 him. Now, as they are approaching him once again to try
9 and pat him down he keeps rolling on his right side,
10 rolling on his right side, wiggling around, he is not
11 letting them get close to him. And you are going to hear
12 from some of those officers today and in fact you will
13 hear from Officer Wes McClinton who was finally able to
14 get to Mr. Derrick and in his right side pocket, where he
15 had been laying down, he finds a bag of meth. And during
16 the struggle in trying to get that bag of meth Mr. Derrick
17 even urinated on himself to try to keep law enforcement
18 from being able to get to the drugs that were in his
19 pocket. Now, one of the things that we have to prove
20 today is beyond a reasonable doubt that the Defendant is
21 guilty of trafficking meth and that he was guilty of
22 possession of alprazolam. And so the first thing I want
23 to talk to you about is this trafficking. Now this looks
24 like a lot but I want to take a step and go over this with
25 you. Trafficking is defined as when a person knowingly

1 sells, manufactures, delivers, purchases or brings into
2 this State; or who provides financial assistance or
3 otherwise aids, abets, attempts or conspires to sell,
4 manufacture, deliver, purchase or bring into this State or
5 who is knowingly in actual or constructive possession or
6 who knowingly attempts to become in actual or
7 constructive possession of 28 grams or more of
8 methamphetamine. Now, this seems like a lot of words but
9 what I want you to focus on here is, that a person, so
10 here it is the Defendant, Phillip Derrick was in actual or
11 constructive possession of 28 grams or more of
12 methamphetamine. Now actual possession means you are
13 found with meth on your person, it is in your hand, it is
14 on your body somewhere or like in this case it was in the
15 Defendant's pocket. The other type of possession we need
16 to focus on is constructive possession. What means is the
17 drugs was found in, such as your home, your car, a storage
18 unit that you own or like in this case, in the camper on
19 the property that Mr. Derrick owned. Now while you may
20 not physically have it in your possession, the person is
21 aware of it, knows it is there, has dominion and control
22 of the location of the substance, here, methamphetamine
23 and alprazolam. Like I said, the Defendant was in actual
24 possession of the drugs that were there found in his right
25 pants pocket, he was actively trying to keep law

1 enforcement from getting ahold of that. And he was in
2 constructive possession of the drugs in the camper. He
3 knew they were there, he owned the property, he had the
4 ability to control that location and the drugs that were
5 there. Now, the other thing that you need to pay
6 attention to is that threshold, that minimum amount, that
7 28 grams or more of methamphetamine. That is trafficking.
8 So he has got, and you will hear from the testimony today,
9 that he had approximately 24 grams in his pocket and there
10 was a smaller baggie that they found in the house, that
11 pushes it past that threshold, that minimum amount of 28
12 grams or more of methamphetamine. And the same with the
13 alprazolam, actual or constructive possession. Now while
14 those pills were not found in his pocket, they were found
15 in that camper that he had control over. Now, at the end
16 of this case the Judge is going to tell you that there are
17 very few things in life that we know for certain. And the
18 law does not require that type of proof. It is not beyond
19 all doubt, it is just beyond a reasonable doubt. Proof
20 beyond a reasonable doubt is proof that leaves you firmly
21 convinced of the Defendant's guilt. And it is based on
22 your total consideration of the evidence, you are firmly
23 convinced that the Defendant is guilty of the crime that
24 is charged, trafficking in methamphetamine and possession
25 of alprazolam. If on the other hand you think there is a

1 real possibility that he is not guilty, then you must find
2 him not guilty. Now at the end of this case, after we
3 have presented all of the evidence and the Defense has had
4 their turn you will begin your deliberations. You are
5 going to go back into the jury room and the Judge is
6 finally going to allow you the opportunity to fully
7 discuss this case. And that is what I want you to do,
8 that is what you are here to do. You are here to give
9 thoughtful consideration to the evidence that is presented
10 before you. Now, I want to talk to you a little bit more
11 about reasonable doubt. It is the type of doubt that
12 would cause a reasonable person to hesitate to act. So
13 think about in the morning when you are leaving to go to
14 work, check your pockets and make sure you have your, make
15 sure you have your keys, the phone, anything else you need
16 to go to work. That is reasonable. You hesitate and you
17 make sure you have it before you leave for the day, right.
18 Now we have to prove our case beyond that. Evidence
19 presented has to leave you firmly convinced beyond a
20 reasonable doubt, a doubt that you don't have to double
21 check. Now today my role is to prove that the Defendant
22 committed these acts, trafficking in methamphetamine, 28
23 grams or more; and possession of alprazolam beyond a
24 reasonable doubt by presenting to you different types of
25 evidence, in order to assist you and understanding what

1 happened back on April 9th of 2018. It is your
2 responsibility to listen to the testimony, review all the
3 evidence once the Judge allows you to and then decide what
4 occurred. The role of the Judge is to be the finder of
5 the law and you are the finder of the facts. That is your
6 job. You listen to everything that we present before you
7 and you decide what happened. And at the end of the case,
8 after you have been given the law by the Judge, you will
9 go back into that jury room and you will start your
10 deliberations. And after you have had some time to
11 thoughtfully consider everything, I trust that each and
12 every one of you will find the Defendant, Phillip Derrick,
13 guilty of trafficking methamphetamine 28 grams or more and
14 possession of alprazolam.

15 THE COURT: Thank you, Solicitor. Mr. Yarborough,
16 are you ready, sir?

17 MR. YARBOROUGH: I am, Your Honor. If the Court,
18 please?

19 THE COURT: Yes, sir.

20 MR. YARBOROUGH: Good morning. It is my pleasure to
21 represent Phillip Derrick. Phillip, stand up. Thanks.
22 Phillip is the type of guy who loves his family members,
23 he will do about anything in the world for them. What you
24 are going to learn that they didn't tell you was that
25 Phillip doesn't live in that camper back there. That

1 camper is about hundred yards behind a mobile home where
2 Phillip's lived and at that time his sister's children
3 because his sister was fighting some bad issues. And he
4 had not been in that camper but for a very small amount of
5 time before the police show up. And you will see, I think
6 will be put into evidence, a video tape of the officers
7 coming in and you will see that that camper is surrounded.
8 And you will see them come in and you will hear Phillip
9 scream and say, look, I want a lawyer, I want to see the
10 search warrant. And you will hear his sister screaming as
11 well. Phillip stands charged today, it doesn't mean he is
12 guilty. Guilt is proven beyond a reasonable doubt, just
13 like the Solicitor said. And that is a fine line and that
14 is up to y'all to determine through the evidence whether
15 or not he is guilty of trafficking. She put up there a
16 outline of trafficking and what is required. The
17 important part of that is, that it is required to prove
18 more than 28 grams of methamphetamine. There is not going
19 to be any evidence in this courtroom that shows that he
20 possessed or had actual control of 28 grams of
21 methamphetamine through the testimony. You are going to
22 hear testimony about stuff that was obviously under the
23 control of someone else. You are going to find out that
24 Phillip is an electrician, hardworking guy, that loves his
25 sister and is trying to do the right thing. Sometimes you

1 put yourself at the wrong place at the wrong time and
2 something like this happened. The great thing about our
3 jury system here in the United States is that an
4 individual that is charged with a crime has a right to be
5 before a jury of his peers, which is y'all, and y'all have
6 a right to look at the evidence and determine whether or
7 not that actual charge of more than 28 grams should stand
8 against Mr. Derrick. And I am pretty sure at the end of
9 the day I will be able to come back up here and talk to
10 you and we will talk about the evidence and we will talk
11 about the videos, we will talk about the testimony of the
12 police officers, we will talk about the different people
13 that testify in this trial. We will talk about the
14 chemist, I want you to listen to what the chemist
15 testified to, it is very important in this case. And I
16 think at that point you are going to learn that Phillip
17 Derrick never had 28 grams of methamphetamine. You will
18 learn that he loves his sister, he would do anything in
19 the world for his sister, was he trying to take care of
20 his sister's children, was he trying to do the right
21 thing, was he trying to take care of his mother, was he
22 trying to do the right thing. Was he back there trying to
23 make sure his sister didn't make any more mistakes. And I
24 would urge you to look at all of that and give him the
25 benefit of this day in court today. And I think when you

1 get through you will realize that he never possessed more
2 than 28 grams, traffic is the word they charged him with,
3 there is no way this is a trafficking case and we would
4 urge that at the end of the day I think you will come back
5 with a verdict of not guilty. Thank you.

6 THE COURT: Thank you, Mr. Yarborough.

7 MR. YARBOROUGH: Thank you, Your Honor.

8 THE COURT: Is the State ready to call your first
9 witness?

10 MR. BROWN: We are, Judge. The State would call
11 Bryan Louis.

12 Bryan Louis, being
13 first duly sworn, testified as follows:

14 DIRECT EXAMINATION

15 By Mr. Brown:

16 Q Good morning, Mr. Louis.

17 A Good morning.

18 Q Tell me your full name?

19 A Bryan Michael Louis.

20 Q And, Mr. Louis, where are you currently employed?

21 A Ware Shoals Police Department.

22 Q And what is your role there?

23 A Chief of Police.

24 Q How long have you been the Chief?

25 A Approximately three years.

1 Q Before becoming Chief of Police at Ware Shoals, where
2 did you work?

3 A Greenwood County Sheriffs Office.

4 Q And how long were you there?

5 A Approximately nine years.

6 Q And in your role at the Greenwood County Sheriffs
7 Office, what division were you in?

8 A I finished in the drug unit, I was in violent crimes.

9 Q What is the Drug Enforcement Unit?

10 A Basically it is a suppression. We try to go out and
11 target individuals selling narcotics, possession of
12 narcotics. And try, if we can, set up a buy for it and
13 proceed with search warrants and money seized and drug
14 seizures.

15 Q And during your nine years of doing, working with the
16 DEU at the Sheriffs Office did you do any specialized
17 training?

18 A I went to several drug classes but I went to Iowa
19 for, I believe it was Iowa, for a clandestine meth lab
20 class.

21 Q What does that mean?

22 A Basically I can identify a meth lab and disassemble a
23 meth lab.

24 Q Now, prior to joining the Greenwood County Sheriffs
25 Office, was that your first time in law enforcement?

1 A No, it wasn't.

2 Q How long have you been a law enforcement officer?

3 A Since 1999.

4 Q And to become a law enforcement officer is there any
5 training required?

6 A Through the South Carolina Criminal Justice Academy.

7 Q The Academy down in Columbia?

8 A Yes.

9 Q And I suspect you went through that?

10 A I did.

11 Q And passed certified class officer?

12 A Yes, sir.

13 Q Now, going back to the DEU, what is that made up of,
14 what agencies?

15 A Greenwood County Sheriffs Office and Greenwood City
16 Police Department.

17 Q Now, back in April of 2018 you were with the
18 Greenwood County Sheriffs Office?

19 A Correct.

20 Q And at that time were you working with confidential
21 informants?

22 A I was.

23 Q Now, prior to this incident, the search warrant that
24 had occurred in April 9th of 2018, leading up to that was
25 there, did you have an opportunity to meet with a

1 confidential informant?

2 A I did.

3 Q And did that confidential informant inform you that
4 drugs can be purchased at 410, at 110 Barkwood Lane?

5 A Correct, they did.

6 Q And that is in Greenwood?

7 A It is.

8 Q Tell me how that went?

9 A We met with the CI, the CI did state they could
10 purchase a quantity of methamphetamine from the property.
11 What we did is we wired them up with a audio and video
12 recording capabilities and some U.S. recorded currency.
13 And searched them and/or their vehicle and then sent them
14 over to that residence.

15 Q And at that time, did the confidential informant go
16 to the residence at 110 Barkwood Lane?

17 A They did.

18 Q And what county is that in?

19 A It is in Greenwood County.

20 Q And it is obviously Greenwood County, South Carolina?

21 A Yes, sir.

22 Q When somebody is wired up, what does that allow them
23 to capture?

24 A Any video that is going on and audio.

25 Q And when it is video and audio, is there a

1 transmitter that also allows you to listen in?

2 A There was, we are able to listen in but not see what
3 is going on at the time.

4 Q And for a CI, is actually out of your sight, did you
5 make sure, what is the controlled part. What makes the
6 controlled part?

7 A We search them prior to them going out, we search
8 them and their vehicle, if they are walking just them.
9 And then once they do the actual buy and come back with it
10 we take the contraband that they did purchase and conduct
11 a search of them and their vehicle again.

12 Q And in this case you did search this CI?

13 A We did.

14 Q And that person did not have any kind of drugs on
15 them?

16 A That's correct.

17 Q And you actually give them money to use to purchase
18 the narcotics?

19 A We do.

20 Q And on April 9th of 2018 or actually leading up to
21 the buy, did that CI actually purchase narcotics from 110
22 Barkwood Lane?

23 A They did.

24 Q And in that interaction who did that CI actually get
25 the drugs from?

1 A From Jamie Couey.

2 Q But on the body cam or the CI wire, who else was in
3 that camper at the time?

4 A The Defendant, Phillip Derrick.

5 Q Phillip Derrick was in there?

6 A Correct.

7 Q And is Phillip Derrick in the courtroom today?

8 A He is.

9 Q Can you describe what he looks like?

10 A Short hair, black suit, sitting next to his attorney.

11 MR. BROWN: Judge, let the record reflect he has
12 identified Phillip Derrick.

13 THE COURT: So noted for the record.

14 Q So after that CI buy where it is known that Jamie
15 Couey and Phillip Derrick are in the camper and a
16 methamphetamine transaction occurred, what did you do?

17 A Once we got the contraband from the CI we went back
18 and typed a report on that and then sought a search
19 warrant for that residence.

20 Q And this would have been, after getting a search
21 warrant for that residence, it has been signed by a Judge?

22 A Yes, correct.

23 Q To be able to search it?

24 A Correct.

25 Q After you have that search warrant in hand, you said

1 you were part of the DEU?

2 A Yes.

3 Q Who all went with you on the search warrant?

4 A It was Captain Cody Bishop was there, let's see, I
5 don't have a list of everybody that was there. It was
6 basically all the City and County guys that were in the
7 drug unit at the time.

8 Q But the City guys, Jamie Lovett and Wes McClinton and
9 yourself?

10 A Yes.

11 Q Went to that location. When you got there where did
12 you go?

13 A I went to the camper.

14 Q And is that where the controlled buy actually took
15 place?

16 A It is.

17 Q And describe this property, what is on this property?

18 A We have, it looks like a doublewide up front and then
19 you have, it is a camper in the backyard, about, I would
20 say a hundred yards from the main residence.

21 Q And, again, the address of this location?

22 A 110 Barkwood Lane in Greenwood County, South
23 Carolina.

24 Q So there is a mobile home in the front part of the
25 property?

1 A Correct.

2 Q And then the camper is out back?

3 A Right, yes sir.

4 Q Did some officers go to the mobile home?

5 A They did.

6 Q Secure that location?

7 A They did.

8 Q And you and other officers went to the camper?

9 A Yes, sir.

10 Q And, again, this happened on April 9th or April 9th
11 of 2018?

12 A Yes, sir.

13 Q Once you got to that location, what did you do?

14 A Prior to making entry to the camper we knocked and
15 said sheriffs office and search warrant and then we
16 entered the camper.

17 Q Who did you see?

18 A Saw Jamie Couey to my front right kind of in front of
19 the bed and then I saw Mr. Derrick off to the left, I
20 believe he was sitting on a heater at the time and would
21 be the kitchen area.

22 Q Was anybody else in the camper?

23 A No.

24 Q So Jamie Couey and Phillip Derrick?

25 A Correct.

1 Q Describe the camper, as you entered the door what do
2 you see?

3 A As I entered there is a bed to the right and a
4 kitchen kind of straight ahead of me and to the left.

5 Q And so Jamie Couey is on the bed to the right?

6 A Yes.

7 Q The kitchen is right there in front of stove and then
8 Mr. Derrick is sitting right there?

9 A Yes, sir.

10 Q What did you do as you entered?

11 A I handcuffed Ms. Couey. I started handcuffing her.

12 Q And then what was Mr. Derrick doing?

13 A He was sitting on the heater, when we walked in I
14 noticed that he had a small plastic bag in his hand,
15 appeared to have contraband in it, he kind of tossed it
16 behind him.

17 Q And after you got Ms. Couey in cuffs did you and
18 other officers detain Mr. Derrick?

19 A We did, it took a while. I believe we got one cuff
20 on him and then he just didn't want to cooperate with
21 officers so it took about three or four officers.

22 Q Did it take more than three or four officers trying
23 to detain him or did y'all use something else?

24 A They used tasers on him as well.

25 Q What is the purpose of that?

1 A Compliance, trying to get him, actually cooperate and
2 loosen his arms up to be handcuffed properly.

3 Q And after that were y'all able to get him cuffed?

4 A They were, yes.

5 Q After they are cuffed, what do y'all do with them,
6 sit them outside?

7 A Yes, he was escorted outside.

8 Q And was Miranda read at that point?

9 A Miranda was read by Captain Bishop along with the
10 search warrant.

11 Q After they are detained, Miranda is read and the
12 search warrant is beginning to be executed, did y'all find
13 anything inside the camper?

14 A We did. We found some, I am sorry, some meth inside
15 the camper and some pills.

16 Q Can you go through what you collected in the camper?

17 A Yes, sir. You want me to go off the report?

18 Q Yes.

19 A Two clear plastic bags containing a crystal like
20 substance which tested positive for meth, had a weight of
21 2.43 grams and 1.75 grams found on kitchen floor by
22 McClinton. One small clear plastic bag containing a green
23 in color leafy plant like material, believed to be
24 marijuana with the weight of .85 grams found on kitchen
25 counter by Louis. One silver in color container with

1 baggy and drug paraphernalia found on kitchen floor by
2 Louis. One clear plastic bag containing 12 blue in color
3 pills, R031 identified as alprazolam, schedule four
4 controlled substance found on kitchen counter by Louis.
5 Two sets of digital scales, black in color found on
6 kitchen counter by Louis. One container with several
7 clear plastic baggies found on kitchen counter by Louis.
8 One triple beam balanced scale found on kitchen counter by
9 Louis. One bag containing a green in color unknown powder
10 with the weight of .30 grams found on kitchen counter by
11 Louis. LP glove box containing a spoon and knife found on
12 cabinet above bed by McClinton. One NUU cell phone found
13 on bed by McClinton. One LG phone found on bed by
14 McClinton. One silver in color LG phone found on bed by
15 McClinton.

16 Q And were all of these items photographed?

17 A They were.

18 Q Chief Louis, I want to show you what has been marked
19 for identification purposes as State's exhibit 5 through
20 24.

21 THE COURT: What exhibit numbers?

22 MR. BROWN: 5 through 24.

23 MR. YARBOROUGH: Your Honor, he can move those into
24 evidence. I am not going to object to them.

25 MR. BROWN: The State would move those into evidence

1 at this time.

2 THE COURT: 5 through 24 into evidence.

3 (Whereupon, State's Exhibits 5 through 24 were
4 admitted into evidence.)

5 Q Chief Louis, again, 5 through 24, do you recognize
6 these photographs?

7 A I actually haven't looked through all of them.

8 Q They are into evidence now, I will just put them up
9 on the --

10 THE COURT: Can you see the screen okay?

11 MR. BROWN: The ELMO.

12 Q This is State's 5?

13 A Yes, sir.

14 Q Does that appear to be a box with a number of
15 baggies?

16 A It does.

17 Q Having all the training of being clandestine,
18 training in clandestine methamphetamine and drugs and
19 being on the unit for over nine years, what is significant
20 about that?

21 A It looks like it is used for packaging narcotics and
22 sale.

23 Q There was a good many bags in that?

24 A Yes.

25 Q State's 5. State's 6. Is this another box with

1 baggies and money?

2 A It is. It looks like --

3 THE COURT: Why don't you step down, Chief, and just
4 be sure you speak up loud because you are away from the
5 microphone.

6 A It appears to be bags and a bag containing
7 methamphetamine.

8 Q And the top right corner, what are those black
9 objects?

10 A Digital scales.

11 Q And what is the significance of digital scales?

12 A Weighing narcotics for sale.

13 Q State's 7.

14 A Appears to be a clear plastic bag containing
15 methamphetamine.

16 Q And this photograph, State's 7, it does have a
17 weight, 26.3. Now that is bagging it, weighing it with
18 the bag, is that correct?

19 A That's correct.

20 Q And after you initially weigh it and do an initial
21 test, a presumptive test, what was the presumptive test on
22 this?

23 A It was positive for methamphetamine.

24 Q After you actually do a presumptive test and weight
25 initially, what do y'all do with it?

1 A We put into evidence and from there it goes to SLED
2 for further testing.

3 Q State's number 8. This is another bag on another
4 scale?

5 A Yes, sir.

6 Q And that was also collected?

7 A It was.

8 Q During the search warrant. State's 9?

9 A This is a plastic bag containing methamphetamine.

10 Q I believe this is the same bag but different angle,
11 State's 10?

12 A Yes, sir.

13 Q State's 11. What does this appear to be?

14 A Looks like some sort of meth pipe and possible
15 narcotics.

16 Q And this is also in the camper?

17 A Yes, sir.

18 Q Where Phillip Derrick and his sister were located?

19 A That's correct.

20 Q State's 12. Is this more of the baggies and pills,
21 is that the pills right in the middle?

22 A It is.

23 Q And that is what you said was the alprazolam?

24 A That's correct.

25 Q Now, these items that are, the pictures were taken,

1 photographs of. These are all right there in the camper,
2 right?

3 A They are, yes sir.

4 Q And Mr. Derrick is sitting there next to it?

5 A Yes.

6 Q And then Ms. Couey is sitting there too?

7 A Correct.

8 Q In searching Ms. Couey, did you find any narcotics
9 actually in her possession?

10 A No, sir.

11 Q In her pants?

12 A I don't think we did.

13 Q In the big bag of methamphetamine, where was that
14 located?

15 A In Mr. Derrick's right cargo pocket.

16 Q State's 13, is this another bag?

17 A It is.

18 Q And that also tested for methamphetamine?

19 A Yes, sir.

20 Q State's 16?

21 A The pills located in the camper.

22 Q State's 17, knife and spoon, is that correct?

23 A That's correct.

24 Q What would the knife and spoon be?

25 A Could be cutting pills. In the spoon you use to melt

1 them down and shoot them.

2 Q State's 18. Now, what is that?

3 A That is going to be the actual residence of 110
4 Barkwood Lane.

5 Q And the camper would be out back?

6 A That's correct.

7 Q And both of these locations were searched, the camper
8 and the mobile home?

9 A Yes.

10 Q The mobile home, there was actually not any narcotics
11 found, is that correct?

12 A Correct.

13 Q And in the mobile home, there were, I believe, an
14 older lady there plus two younger people and a child?

15 A Yes, sir.

16 Q An infant in the mobile home?

17 A I believe there was.

18 Q State's 20. Is that another picture of that mobile
19 home?

20 A It is.

21 Q And then in State's 22. Is that photograph of the
22 camper out back?

23 A It is.

24 Q That is where Mr. Derrick and Ms. Couey were located
25 inside?

1 A That's correct.

2 Q Are Mr. Derrick and Ms. Couey, are they related?

3 A I believe it is brother, sister.

4 Q State's 24. Are those the baggies, the bigger baggy
5 of meth and then the other baggies that were located?

6 A It is.

7 Q And then additional scales?

8 A Correct.

9 Q And then the paraphernalia with the, all the baggies?

10 A Yes, sir.

11 Q You can take a seat.

12 MR. BROWN: Judge, at this time I would like to move
13 what's originally marked as Court's 1 as State's 1. And
14 this would be the deed to that property. It can be a
15 self-authenticating document.

16 THE COURT: Take a look at it.

17 MR. YARBOROUGH: Without objection.

18 THE COURT: Without objection, number 1 into evidence
19 for the State.

20 COURT REPORTER: Judge, we already have a number 1
21 into evidence. So I can mark that as 25.

22 THE COURT: 45?

23 COURT REPORTER: 25.

24 THE COURT: 25.

25 COURT REPORTER: Yes, sir.

1 (Whereupon, State's Exhibit 25 was admitted into
2 evidence.)

3 Q Now, Chief Louis, did you become aware of who owned
4 that property?

5 A The residence itself?

6 Q I will show you what is in evidence now as State's
7 25. Who owns 110 Barkwood Lane?

8 A According to this document it says Phillip Derrick.

9 Q And at the top right hand corner, when was that filed
10 with the Clerk of Court in Greenwood County?

11 A 5/13/2014.

12 Q Mr. Derrick owned that property, the mobile home and
13 all the contents on it?

14 A Yes, sir.

15 Q Now, during this search you said there were a number
16 of officers out there, right?

17 A Yes, sir.

18 Q And during the search do each one of you have a job
19 to do?

20 A There is one that reads the search warrant and
21 another one collects evidence.

22 Q And in this, I think you said that Captain Cody
23 Bishop read the search warrant and actually Mirandized
24 both Ms. Couey and Mr. Derrick?

25 A Correct.

1 Q Other officers were there as backup or helping the
2 search?

3 A Yes.

4 Q In this case, Wes McClinton, did he help search?

5 A He did.

6 Q And you actually helped search?

7 A I did.

8 Q Other officers from the Greenwood City and County
9 searched the mobile home?

10 A They did.

11 Q And since this is kind of your case, you are the
12 lead, was it your job to collect the evidence?

13 A It was.

14 Q I want to show you what has been marked as State's 1.
15 I want to show you, see if you recognize this?

16 A It appears to be narcotics found inside the camper at
17 110 Barkwood Lane.

18 Q How do you know that?

19 A Just from the size and reviewing from the pictures
20 and it is actually marked with my name on the outside. I
21 was the one that sealed this bag with the contents in
22 there.

23 Q And does it have the date?

24 A It does. 4/9 of 2018.

25 Q Chief Louis, in those photographs you have each

1 baggie that is individually weighed. You took pictures of
2 them, is that correct?

3 A Correct.

4 Q And after you do the initial weighing and the
5 presumptive testing or the preliminary testing to see if
6 you do, in fact, have methamphetamine, what is the purpose
7 of these bags?

8 A Those are placed into evidence and then they are
9 transported down to SLED for further testing, chemical
10 testing.

11 Q And what are those kind of bags called?

12 A They are called Best packs.

13 Q And why is that?

14 A I don't know what the acronym stands for but it is a
15 secured, it is a bag used by SLED, has the serial number
16 on there as far as transferring any evidence.

17 Q And when you stick those bags, the drug evidence into
18 these bags, do you leave the bag open?

19 A No, I close it.

20 Q And why is that?

21 A So nobody, no drugs fall out and nobody goes in it so
22 it is basically sealed to know who has been in that bag.

23 Q And it would show if somebody has tampered with it in
24 any way?

25 A Yes, it would.

1 Q Just to kind of preserve the integrity of testing?

2 A Exactly.

3 Q In this case did you have the opportunity to put all
4 the drugs in that Best Kit?

5 A I do.

6 Q Seal it up?

7 A I do.

8 Q And once you seal them up in a Best Kit what did you
9 do with it?

10 A Once I signed it and sealed it up I placed into
11 evidence over at the Sheriffs Office.

12 Q Greenwood County Sheriffs Office?

13 A I did.

14 Q Right back here?

15 A Correct.

16 Q And in doing that you fill out a chain of custody?

17 A I do.

18 Q What is the purpose of a chain of custody?

19 A Once again, to know who has had their hands on that
20 piece of evidence.

21 Q And, again, to make sure the integrity of the chain
22 is correct, is identifiable?

23 A Yes, sir.

24 Q And how do you submit that into evidence?

25 A I believe I entered it into the computer at the time,

1 you have to log it in, each piece.

2 Q And who was the evidence custodian at the time at the
3 Greenwood County Sheriffs Office?

4 A I believe it was Womack and Greg Allison at the time.

5 Q Greg Allison and Matthew Womack?

6 A Correct.

7 Q And, again, these are the drugs that you secured from
8 that location, at 110 Barkwood Lane?

9 A Yes, sir.

10 Q On April 9th of 2018?

11 A Yes, sir.

12 Q And Mr. Derrick was there?

13 A Yes, he was.

14 Q After the execution of the search warrant and the
15 collection of what we just went over, those baggies, did
16 you have the opportunity to talk with Mr. Derrick?

17 A I did.

18 Q And when was that?

19 A I believe it was the next day.

20 Q April 10th of 2018?

21 A That's correct.

22 Q I want to show you what has been marked for ID as
23 State's 3. Do you recognize that?

24 A I do.

25 Q What is that?

1 A It is a voluntary statement, it is a form used by the
2 Greenwood County Sheriffs Office.

3 Q And were you the one that was helping fill that out
4 or were you witnessing this?

5 A I was filling it out and witnessing it.

6 Q And if you will start at the top, what does that
7 document say?

8 A At the very top it says, voluntary statement.

9 Q And who was giving this statement?

10 A Phillip Derrick.

11 Q And, again, the date was what?

12 A 4/10 of 2018.

13 Q And the time?

14 A The time is 09:12 hours.

15 Q And where did that take place?

16 A At the Greenwood County Detention Center.

17 Q What does it say going down through there?

18 A You want me to read it from Phillip Derrick?

19 Q Yes, sir.

20 A I, Phillip Derrick, am 35 years of age. My date of
21 birth is 2/25/83 and my present address is 110 Barkwood
22 Lane. I can read and write and have completed the, it
23 looks like it says associate degree in school. I am
24 giving this statement to Bryan Louis who has identified
25 himself as an agent and has duly sworn me and advised me.

1 Q And what did you want to advise him for?

2 A I have the right to remain silent. Anything I say
3 can and will be used against me in a court of law. I have
4 the right to talk to a lawyer and have him present with me
5 while being questioned. If I cannot afford a lawyer one
6 will be appointed to represent me before any questioning
7 if I wish. I can decide at any time to exercise these
8 rights and not answer any questions or make any
9 statements. I understand my rights, having my rights in
10 mind I am waiving my rights and giving this statement.

11 Q And Mr. Derrick signed that?

12 A He did.

13 Q What did Mr. Derrick say?

14 A His statement reads, the dope found in camper
15 belonged to Jamie Couey.

16 Q Anything else?

17 A That was it.

18 Q Did he mention anything about the dope found in his
19 pocket?

20 A He did not.

21 Q And, again, when the CI buy took place a couple of
22 days before 4/9/2018, who was located in that camper?

23 A Phillip Derrick and Jamie Couey.

24 Q And then the execution of the search warrant on 4/9
25 of 2018, who was in that camper?

1 A Phillip Derrick and Jamie Couey.

2 Q And when you walked into that camper what did you
3 notice Mr. Derrick do?

4 A It looked like he had a small bag, contraband which
5 would be methamphetamine, clear plastic bag and looked
6 like a crystal substance. He was kind of had it down
7 below him and appeared to just get rid of it behind him.

8 Q And those pictures of the box that was open with all
9 the baggies, drug paraphernalia, scales, was that in plain
10 sight?

11 A It is, it was.

12 Q Right in the middle of the camper?

13 A It was.

14 Q And at the end of the search, after y'all had to use
15 a taser and everything else on him, at the end of the
16 search what did y'all find on Mr. Derrick?

17 A In his right pocket, crystal like substance of clear
18 plastic bag containing a crystal like substance that
19 tested positive for methamphetamine.

20 Q And was that the biggest bag y'all found?

21 A It was.

22 Q On Mr. Derrick?

23 A It was.

24 Q And, again, the property belonged to Mr. Derrick?

25 A That is what it stated, yes.

1 MR. BROWN: Judge, I don't think I moved that in.
2 The State would move State's 3 into evidence.

3 THE COURT: Mr. Yarborough, any objection to 3 which
4 is the, reports to be the Defendant's statement?

5 MR. YARBOROUGH: No sir, I thought we moved that in
6 yesterday.

7 THE COURT: All right. It is into evidence as
8 State's 3.

9 (Whereupon, State's Exhibit 3 was admitted into
10 evidence.)

11 Q And, again, that search warrant was for 110 Barkwood
12 Lane, is that correct?

13 A That is correct.

14 MR. BROWN: Judge, may we approach?

15 THE COURT: Sure.

16 (Whereupon, a bench conference was held in the
17 presence of the jury but out of the hearing of the
18 jury.)

19 THE COURT: You may proceed, Solicitor.

20 MR. BROWN: Thank you, Judge.

21 THE COURT: You are offering the 26 into evidence?

22 MR. BROWN: Yes sir, State's 26 would be the search
23 warrant.

24 THE COURT: Any objection?

25 MR. YARBOROUGH: No sir, Your Honor.

1 THE COURT: No objection, 26 into evidence for the
2 State.

3 (Whereupon, State's Exhibit 26 was admitted into
4 evidence.)

5 MR. BROWN: No further questions.

6 THE COURT: All right. Let's do this, let's take a
7 short morning break before going into cross-examination.
8 Ladies and gentlemen, we are going to take a break and
9 once again, don't begin any discussions about this case.
10 And we will get you out shortly and proceed forward. Mr.
11 Foreman, keep that first seat there.

12 (Whereupon, the jury was excused from open court for
13 a break.)

14 THE COURT: Again, Mr. Yarborough, we had some
15 discussion about asking Chief Louis about Jamie and her
16 admission that the drugs in the camper were her's. Let's
17 just hold off on anything related to that until Jamie is
18 brought to court and see what she says and then we will
19 figure it out. Okay.

20 MR. YARBOROUGH: The only thing that I would say for
21 the record, Your Honor, on direct the Solicitor asked this
22 officer if he had Mirandized Jamie and he said, yes. And
23 they didn't go any further in regards to her, they did in
24 regards to Phillip. I think at this point I can say, I
25 would like to be able to say, what did she, was she

1 Mirandized and he is going to say, yes. And then I say,
2 did she give a statement.

3 THE COURT: Well, and I think up to that point that
4 probably would be permissible. But the contents of the
5 statement, I don't believe we can go into that at this
6 time nor did your investigation deal with someone else
7 claiming ownership. Since we are getting Jamie here,
8 assuming she is picked up, let's see what she does. But I
9 think up to that point, I mean it has already been stated
10 that she, that both of them were Mirandized on the scene.
11 And, you know, without going into the contents I think,
12 did she give a statement, period. I think that would be
13 permissible. Does the State object to that?

14 MR. BROWN: I don't object to that that she gave a
15 statement but any kind of eluding to what she said.

16 THE COURT: Right.

17 MR. YARBOROUGH: That would be hearsay.

18 THE COURT: That's right.

19 MR. BROWN: That would be hearsay.

20 THE COURT: Okay. Very good. Let's take a short
21 little break. You can step down but don't talk about your
22 testimony.

23 (Whereupon, a short break was taken.)

24 THE COURT: Is the State ready?

25 MR. BROWN: Yes, sir.

1 THE COURT: Is the Defense ready for the jury?

2 MR. YARBOROUGH: Yes, sir.

3 THE COURT: Bring the jury out, please.

4 (Whereupon, the jury came into open court at
5 approximately 11:20 a.m.)

6 THE COURT: Let the record reflect the jury is back
7 in. Mr. Yarborough, are you ready for your cross?

8 MR. YARBOROUGH: Yes, sir. Thank you, Your Honor.

9 THE COURT: You may proceed.

10 CROSS-EXAMINATION

11 By Mr. Yarborough:

12 Q Good morning.

13 A Good morning, sir.

14 Q Were you the lead officer at that time?

15 A If you would call it that, yes.

16 Q At that time you were working for the drug, DU, I
17 think that is what you called it?

18 A Yes, sir.

19 Q You don't work there anymore?

20 A No, sir.

21 Q You are doing something else?

22 A Yes, sir.

23 Q That was a choice you made or somebody else made?

24 A The Sheriffs Office made it.

25 Q The Sheriffs Office made it. And you decided after

1 that you went to where you are in, Ware Shoals?

2 A Yes, sir.

3 Q Okay. So that, you had an informant, is that right?

4 A That's correct.

5 Q And you had, you were trying, you had made a purchase
6 from Jamie Couey, is that right?

7 A That's correct.

8 Q And you made that purchase out of a trailer behind my
9 client's house?

10 A If you are referring to the trailer as the camper,
11 yes.

12 Q You call it a camper?

13 A Yes, sir.

14 Q Okay. Let's kind of, let's get that straight. The
15 front is the trailer, right, mobile home?

16 A Yes, sir.

17 Q We will call it a mobile home?

18 A Yes, sir.

19 Q And the mobile home has a camper that is about
20 hundred yards behind it back up in the woods?

21 A Yes, sir.

22 Q Okay. And so Derrick lived in the mobile home?

23 A I believe he did, sir.

24 Q And did you go in the mobile home during the search?

25 A Probably at some point I may have but I don't

1 remember. I was really focused on the camper in the back.

2 Q And that camper is where you had made purchases
3 before?

4 A Yes.

5 Q Another purchase?

6 A Yes.

7 Q So you made one in 72 hours and then you made one
8 before that from Jamie Couey?

9 A Oh, I don't know.

10 Q Did you do the affidavit for the --

11 A I did.

12 Q So you had, you had arrested her before?

13 A I believe I have.

14 Q You had arrested her for narcotics?

15 A I believe I had.

16 Q And you put that in the affidavit?

17 A You want me to read that portion of it?

18 Q Yeah, you can.

19 A Are you talking about the paragraph that starts with,
20 in the past 72 hours. You want me to read the last line
21 on there?

22 Q No, you can, we will read the whole thing. I know
23 you have read it before but just go back over it and I may
24 stop you along the way, if that is okay.

25 A Yes, sir. Okay.

1 Q This is your language, right?

2 A Yes, sir.

3 Q Okay.

4 A In the past 72 hours I have documented reliable
5 confidential informant.

6 Q That is your informant, right?

7 A Correct.

8 Q Okay.

9 A Working with the Greenwood County DEU --

10 Q That is you?

11 A Yes.

12 Q Okay.

13 A Purchased a quantify of crystal like substance which
14 tested positive for meth from Jamie Couey.

15 Q So that purchase was made from Jamie Couey?

16 A Correct. In a camper behind the residence located at
17 110 Barkwood Lane.

18 Q And the residence at 110 Barkwood Lane, you did go
19 into or you didn't go into?

20 A I may have towards the end of everything but the
21 first place I went was the camper.

22 Q But you know 110 Barkwood Lane is where the Defendant
23 lives?

24 A Correct.

25 Q Okay.

1 A In the County of Greenwood, South Carolina. The
2 informant was equipped with audio/video recording
3 capabilities and made contact with Couey.

4 Q And made contact with Couey, the woman that was in
5 the camper?

6 A Yes.

7 Q And she is the one, go ahead.

8 A Who exchanged a clear plastic bag containing a
9 crystal like substance, recorded U.S. currency.

10 Q Okay. Did you find that U.S. currency on Ms. Couey?

11 A I don't believe we did at the search warrant.

12 Q Okay. And then after that, did you watch the
13 informant leave?

14 A We get as close as we can. I didn't physically watch
15 her leave. We parked down the road, we can hear what is
16 going on as far as that. So we know when she left.

17 Q And then after that, keep on going. The informant
18 then --

19 A Left the residence and made contact with agents and
20 relinquished the drugs.

21 Q So they brought the drugs back to you that they had
22 bought from Couey?

23 A Correct.

24 Q And then you put one more line in there.

25 A Couey has been arrested at this residence in the past

1 and drug paraphernalia has been located inside the
2 residence.

3 Q So she had been arrested with drugs before?

4 A Yes, sir.

5 Q And with drug paraphernalia?

6 A Yes, sir.

7 Q Okay. Now, the Solicitor showed you a bunch of
8 pictures, were these pictures you took from the search?

9 A Everybody, once they find, they kind of just take
10 pictures where they find the narcotics or contraband.

11 Q Okay.

12 A I am not sure I actually took any photos.

13 Q But you, you went through her stuff, right, in the
14 trailer?

15 A Yes, sir.

16 Q So you took pictures of what has been marked Exhibit
17 12, can you look at that?

18 A Yes, sir.

19 Q And that is a ladies razor and some ladies stuff, and
20 like a ladies lighter. Would you agree with that, pink?

21 A The pink razor, yes sir.

22 Q And then that is some paraphernalia and stuff that
23 was found in there, right?

24 A Yes, sir.

25 Q And then that is more paraphernalia that was in there

1 with the woman's stuff, right?

2 A Yes, sir.

3 Q And did you put all the pictures in that you took?

4 A Once again, if I took any they would have been put
5 in.

6 Q Okay. Here is another one, this is State's, I think
7 it says 24 but would you look at 24, that is some pictures
8 of butterflies and ladies type stuff, right?

9 A It does say Noel, Peace, Love on there, on the box.

10 Q Peace, love and pink, butterflies.

11 A Butterflies as well.

12 Q Are you married?

13 A I am.

14 Q Daughters?

15 A One.

16 Q Typically woman stuff?

17 A It could be construed as that, yes.

18 Q Okay. Did you also take some pictures of some
19 clothes and items that were there?

20 A I don't know if I actually took pictures but if I did
21 I would put them in.

22 Q I have got them over here.

23 MR. YARBOROUGH: Excuse me, Your Honor.

24 THE COURT: Take your time.

25 Q Let me show you these two pictures and see if you

1 recognize them?

2 A Yes, sir.

3 Q They are from, do you want to look at them?

4 A Okay.

5 MR. YARBOROUGH: I will have this marked as Defense 1
6 and 2 without objection.

7 COURT REPORTER: It will be 6 and 7.

8 MR. YARBOROUGH: 6 and 7.

9 MR. BROWN: No objection.

10 THE COURT: 1 and 2 into evidence for the Defense.

11 MR. YARBOROUGH: I think they said it is 6 and 7,
12 Your Honor.

13 COURT REPORTER: Yes sir, it is 6 and 7.

14 (Whereupon, Defendant's Exhibits 6 and 7 were
15 admitted into evidence.)

16 Q I am going to show you these two. I think, to be
17 honest with you, one of them is just a smaller picture of
18 the bigger one. I look at them, they are small. Do you
19 recognize them?

20 A Yes, it looks like the inside of the camper.

21 Q It looks like some woman's clothes, boots, bags, that
22 kind of stuff that is in there?

23 A I do see a bag and it looks like a boot.

24 Q But they look like women's stuff?

25 A Yes, the purse, yes it does.

1 Q I mean the bottom line is, in that camper is, was
2 woman's stuff, right?

3 A There was women's stuff in there.

4 Q Ms. Couey was living there?

5 A As I said, she may have been living there. It looks
6 like she was staying in there.

7 Q And you had made a purchase of drugs from her there?

8 A I did.

9 Q Are you familiar that my client lived in the trailer?

10 A I was, at the time I wasn't aware that he was living
11 there, actually on the property.

12 MR. YARBOROUGH: I am going to mark these, as Defense
13 exhibits 8 and 9.

14 THE COURT: Any objection coming into evidence?

15 MR. BROWN: No objection.

16 THE COURT: 8 and 9 comes into evidence for the
17 Defense.

18 (Whereupon, Defendant's Exhibits 8 and 9 were
19 admitted into evidence.)

20 Q I am going to show you these two, do you recognize
21 these pictures?

22 A That would be the mobile home of 110 Barkwood Lane.

23 Q And that would be my client's residence, correct?

24 A Yes, sir.

25 Q And that is 110 Barksdale Lane?

1 A Barkwood Lane.

2 Q Barkwood Lane?

3 A Yes, sir.

4 Q And you see a car out in front of there?

5 A I did.

6 Q Do you recognize that to be his car?

7 A I don't remember if that was his car or not.

8 Q Were you there, how long were y'all staking out the
9 place before the search warrant?

10 A I really don't know how we were there prior to that.

11 Q You didn't see him pull up five minutes before the
12 search warrant was executed?

13 A If I was executing the search warrant of the camper,
14 I would have been in the back.

15 Q You would have been in the back, you wouldn't have
16 seen what was happening up front?

17 A No, sir.

18 Q Okay. And that is really what you were executing the
19 search warrant on, is just what you said, it was the
20 camper, right?

21 A The camper, yes sir.

22 Q But y'all searched the house?

23 A Yes, sir.

24 Q Didn't find anything in the house?

25 A No.

1 Q Found some, that is where Derrick was living?

2 A It was his residence, I don't know --

3 Q He lived there with Jennifer Higdon, his wife?

4 A Yes, sir.

5 Q And they had, were they taking --

6 A I am not hundred percent what his spouse's name is.

7 Q But she was living there?

8 A I think so, yes.

9 Q And they were taking care of a couple of children for
10 Jamie Couey?

11 A I believe there were children there, yes sir.

12 Q And some middle high school or middle school type?

13 A Yes, sir.

14 Q Kids that were there that were Jamie's kids as well?

15 A I believe so, yes sir.

16 Q And Derrick, his wife, Jennifer Higdon and Derrick
17 were taking care of the kids in that house?

18 A Well, at the time he was in the camper, he wasn't in
19 the house.

20 Q Okay. But y'all searched the house?

21 A Correct.

22 Q And that is what your search would have revealed?

23 A That she was in there, yes sir.

24 Q Okay. And that house had nothing illegal in it?

25 A No, sir.

1 Q I am going to ask you, were you running a video
2 camera during the arrest?

3 A I don't believe I was. I don't think the Sheriffs
4 Office had body cams.

5 Q Does the Sheriffs Office have a body camera?

6 A I am not sure, I don't think they did.

7 Q You don't think they did?

8 A I think the City may have, I don't think we had them
9 yet.

10 Q Okay. So you didn't have that?

11 A I don't believe we had them.

12 Q Did the same informant make the other purchase from
13 Jamie Couey that you are talking about there, in your
14 affidavit?

15 A In the affidavit where I am saying that, let me see
16 here, Couey has been arrested at the residence in the
17 past. It just doesn't say that I arrested her.

18 Q But you were familiar that she had been arrested?

19 A I am familiar with her, yes.

20 Q Okay. You are familiar with her?

21 A Yes, sir.

22 Q Being a narcotics dealer?

23 A Being involved in narcotics, yes.

24 Q And you told us about Mirandizing them, correct?

25 A Yes, sir.

1 Q And you Mirandized my client and he told you that the
2 drugs and the trailer were not his. Is that right?

3 A That's correct.

4 Q And you Mirandized Ms. Couey as part of your
5 investigation?

6 A I did.

7 Q And she gave a statement?

8 A She did.

9 Q After you got both of those statements did you think
10 to look at the bags of drugs that were found in the camper
11 for any type of fingerprints?

12 A No, we did not.

13 Q Did you check for any type of DNA?

14 A No, sir.

15 Q Were you the lead investigator?

16 A I guess I would be labeled at that, yes sir.

17 Q And so you didn't, you didn't go that route after my
18 client said those weren't his drugs?

19 A No, I did not.

20 Q Did he, when you came in he wanted to see the search
21 warrant, right?

22 A I believe he did ask to see it.

23 Q Yes, he asked to see the search warrant and was
24 upset. Would you say that is fair?

25 A I would say that is fair.

1 Q And she was screaming?

2 A She didn't really start screaming until we were
3 trying to detain Mr. Derrick.

4 Q She was upset you were arresting her brother?

5 A Well, I was kind of standing on her foot during the
6 whole scuffle that we had with Mr. Derrick. That is why
7 she was screaming.

8 Q But it upset her?

9 A It did.

10 MR. YARBOROUGH: One second, Your Honor.

11 THE COURT: Sure, take your time.

12 Q Now, was the informant you used to make purchases
13 from Ms. Couey, was she working on charges with you?

14 A At that time, I don't know. If she wasn't working on
15 charges then she received compensation for it, in the form
16 of U.S. currency.

17 Q Okay. She hadn't been charged with something that
18 you are aware of?

19 A I don't remember if she had or not.

20 Q But she was your informant, right?

21 A I used her, a lot of people used --

22 Q Do you have her informant pack with you?

23 A I do not.

24 Q Would it surprise you if she was working off charges?

25 A Would it surprise me?

1 Q Yes.

2 A No, sir.

3 Q That is not unusual?

4 A No, sir.

5 Q And that is how you get into making purchases with
6 somebody like Ms. Couey?

7 A Yes, sir.

8 Q I don't have any further questions.

9 MR. YARBOROUGH: Thank you, Your Honor.

10 THE COURT: Any redirect?

11 MR. BROWN: Yes sir, Judge.

12 REDIRECT EXAMINATION

13 By Mr. Brown:

14 Q Chief Louis, leading up to that search, there was the
15 one buy there at that location, right?

16 A That is what led us to that search warrant, yes.

17 Q At 110 Barkwood Lane?

18 A Yes, sir.

19 Q And at that time, on that video, during that buy Ms.
20 Couey is in the camper?

21 A Correct.

22 Q And her brother, Phillip Derrick?

23 A That's correct.

24 Q And 110 Barkwood Lane, again, is owned by Phillip
25 Derrick?

1 A According to that document there, yes sir.

2 Q So if he is the owner he is the landlord?

3 A That's correct.

4 Q He allows people to live on his property?

5 A He would have.

6 Q Again, he was in the camper when the CI took place,
7 the CI buy took place?

8 A He was.

9 Q And then he was, a couple of days later in the camper
10 when the search warrant was executed?

11 A He was again, yes.

12 Q And what was in his hand when you came in?

13 A It appeared to be a bag of methamphetamine.

14 Q What did he do with it?

15 A He dropped it behind him.

16 Q And where was all of the paraphernalia in the camper?

17 A In the bedroom and kitchen area.

18 Q And at the end, where was the biggest bag of
19 methamphetamine located?

20 A On Mr. Derrick.

21 Q Ms. Couey was also charged with the same thing,
22 right?

23 A Yes, sir.

24 Q She didn't walk out of there without charges?

25 A She did not.

1 Q The same charges?

2 A Yes.

3 Q You said the County didn't have body cams but the
4 City did?

5 A I believe so.

6 Q And I believe it was Lovett and McClinton, they
7 worked the City?

8 A I believe so, yes.

9 Q And, again, when you gave or talked with Mr. Derrick,
10 he wrote in his statement, he just said that the drugs in
11 the camper were not his?

12 A That's correct.

13 Q He didn't mention anything about what was in his
14 pants pocket?

15 A He did not.

16 Q And, again, it is on his property?

17 A Correct.

18 Q No further questions.

19 THE COURT: Any recross?

20 MR. YARBOROUGH: No sir, Your Honor.

21 THE COURT: You can step down, thank you. Call your
22 next witness.

23 MR. BROWN: We call Wes McClinton.

24 Wes McClinton, being

25 first duly sworn, testified as follows:

DIRECT EXAMINATION

By Mr. Brown:

Q Good morning, Officer McClinton.

A Good morning.

Q Where do you work?

A Greenwood City Police Department.

Q How long have you been with the City Police Department?

A A little over 12 years now.

Q And what is your role there?

A Sergeant in the crimes suppression unit now.

Q And what is that?

A We do, mostly gangs, gang narcotics, controlled neighborhoods where there is a lot of drug and gang violence.

Q And back in 2018 were you part of the drug enforcement unit?

A Yes, sir.

Q And that is a joint task force with Greenwood Sheriffs Office and the City?

A Yes, sir.

Q Prior to becoming a law enforcement officer, what were you doing?

A In the Military.

Q What branch?

1 A Army.

2 Q And how long were you in the Army?

3 A I just retired, 21 years.

4 Q 21 years?

5 A Yes, sir.

6 Q Were you ever deployed?

7 A Twice, yes sir.

8 Q Where?

9 A Iraq both times.

10 Q After you came back out of the Army, and joined law
11 enforcement, did you have law enforcement training?

12 A Yes, sir.

13 Q And where is that?

14 A At the Academy in Columbia.

15 Q And did you have any special training in narcotics
16 investigation?

17 A Going to several classes, went to a BLAST in
18 Mississippi and other similar narcotics related training
19 classes. Yes, sir.

20 Q And back in 2018, on April 9th of 2018, were you a
21 part of a group of officers that executed a search warrant
22 at 110 Barkwood Lane?

23 A Yes, sir.

24 Q Here in Greenwood?

25 A Yes, sir. Greenwood County.

1 Q Okay. And at that time did you have a body camera
2 on?

3 A Yes sir, I did.

4 Q Let me show you what has been marked State's ID 27.
5 Do you recognize that disk?

6 A Yes, sir.

7 Q And how do you recognize that disk?

8 A It is a disk from my body camera.

9 Q And does this show you all enter the camper?

10 A Yes sir, it does.

11 MR. BROWN: Your Honor, at this time we move State's
12 exhibit 27 into evidence.

13 MR. YARBOROUGH: Without objection.

14 THE COURT: Without objection 27 into evidence for
15 the State.

16 (Whereupon, State's Exhibit 27 was admitted into
17 evidence.)

18 Q Now, when you approached the 110 Barkwood Lane, this
19 is all one address. Is that right?

20 A Yes, sir.

21 Q There is a mobile home up front?

22 A That's correct.

23 Q And in the back there is a camper?

24 A That's correct, yes sir.

25 Q Where did you go?

1 A I went to the back at the camper.

2 Q And did you and Agent Louis, now Chief Louis, did
3 y'all go in the camper?

4 A Yes sir, we did.

5 Q And what happened then?

6 A Entered the camper, Chief Louis advised the Sheriffs
7 Department search warrant; contacted two subjects inside,
8 Mr. Derrick and a female subject. Subsequently arrested
9 both of them, detained both of them, got them outside and
10 began searching the camper.

11 Q And initially getting Mr. Derrick cuffed, did y'all
12 have a time with him?

13 A Yes, we had a handful with him. I was able to get
14 one handcuff on his hand, on one hand. And he began
15 resisting, had to tase him with the taser two or three
16 times. He still wouldn't comply. He was resistant pretty
17 hard.

18 Q Did you notice anything when you came in the camper
19 initially?

20 A Mr. Derrick was sitting on a crate or a box or
21 something. I remember him sitting on the floor on some
22 kind of stool or box. As soon as we walked in and Chief
23 Louis announced Sheriffs Department search warrant, Mr.
24 Derrick threw something down or dropped something beside
25 him or behind him. I do remember that, yes sir.

1 Q And during the execution of the search warrant you
2 ultimately picked up a bag of meth?

3 A Yes, sir.

4 Q After getting them detained, Ms. Couey and Mr.
5 Derrick, you searched the camper?

6 A Yes, sir.

7 Q And you found a number of items there?

8 A Quite a bit of stuff, yes sir.

9 Q A number of baggies of methamphetamine?

10 A Yes, sir.

11 Q And Agent Louis was in there with you at the time
12 too?

13 A Yes, sir.

14 Q In the pictures, you also found boxes with little
15 plastic baggies?

16 A Yes, sir.

17 Q Scales?

18 A Yes, sir.

19 Q And is that consistent with --

20 A It is all indicative of packaging and narcotic sales,
21 yes sir.

22 Q Are there scales there too?

23 A Yes, sir.

24 Q And is Mr. Derrick, the man you found in there, is he
25 in the courtroom today?

1 A Yes, sir.

2 Q That is who you arrested?

3 A Yes, sir.

4 Q After searching the camper were you able to really
5 initially able to search Mr. Derrick?

6 A He was being real uncooperative and kind of
7 struggling to stay away from us for the most part. After
8 we got him outside, we got him outside the camper and kind
9 of just in a cradle position. So we weren't able to
10 search him at that time, we searched the camper first.

11 Q Later on were you able to search him?

12 A Yes, sir.

13 Q And what did you find?

14 A In one of his cargo pockets was a clear plastic bag
15 of meth, crystal substance, quite a bit.

16 Q Is that the biggest bag you found?

17 A Yes, sir.

18 Q I am going to play State's 27 at this time.

19 (Whereupon, State's 27, a video was played for the
20 jury.)

21 Q Is this your body cam?

22 A Yes, sir.

23 Q Is that Chief Louis there in front of you?

24 A Yes, sir.

25 (Whereupon, video continues to play.)

1 Q Now, Officer McClinton, Mr. Derrick and Ms. Couey
2 were the only ones in there, right?

3 A Yes, sir.

4 Q In the camper. And after getting him in cuffs and
5 Ms. Couey, y'all got them out of the camper, is that
6 right?

7 A Yes, sir.

8 Q And then the search began?

9 A Yes, sir.

10 Q Again, on another video, another officer's video are
11 you able to see you get the drugs out of his pants pocket?

12 A Yes, sir.

13 Q Is it safe to say that that camper is pretty small?

14 A Very tight in there, a lot of stuff, yes sir.

15 Q And a bed to the right, kind of stove right as you
16 come in and then he is sitting literally right there?

17 A Yes, sir.

18 Q So it is really within feet of each other?

19 A Not a lot of room at all.

20 Q How many officers were trying to get his arms behind
21 him?

22 A At the end, four. Myself and Chief Louis had a heck
23 of a time doing it. The two guys that came in next,
24 probably are the two of the strongest guys on our team and
25 we still couldn't get his hands behind his back.

1 Q Is that Noblin and Cody Bishop?

2 A Yes, sir.

3 Q And actually after getting him cuffed everybody kind
4 of deescalates, calms down?

5 A Yes, sir.

6 Q Makes sure everybody is all right?

7 A Right, yes sir.

8 Q And during that search, afterwards, was anybody
9 injured during that?

10 A I am not sure, I wasn't.

11 Q Mr. Derrick and his sister wasn't?

12 A No, sir.

13 Q But they were checked out and made sure?

14 A Yes, sir.

15 Q And that would be protocol for the City and the
16 County?

17 A Yes, sir.

18 Q When Mr. Derrick was outside the camper, when you
19 were doing the search and then ultimately at the end, the
20 search is about, I guess you are searching that camper for
21 a little while?

22 A Yes, sir.

23 Q What did Mr. Derrick, what did his pants appear to
24 have, or what had he done laying on the ground?

25 A Toward the end he urinated on himself. He was on his

1 side and it didn't dawn on me until afterwards that it was
2 kind of a defensive mechanism to keep us away from
3 touching him. But he urinated all over himself.

4 Q And where, which pocket was the --

5 A I want to say he was laid to his right with his belly
6 facing the camper and it would have been in his right
7 pocket. When everyone was facing the camper and down to
8 the ground was the one he was in, he wouldn't roll over
9 off to that side.

10 Q Even at the end when y'all were trying to check those
11 pockets he was still defensive?

12 A Still wouldn't comply at all. No, sir.

13 Q No further questions.

14 THE COURT: Any cross-examination?

15 CROSS-EXAMINATION

16 By Mr. Yarborough:

17 Q Are you familiar with that address?

18 A No, sir.

19 Q That is the first time you had been there?

20 A That is the first time I had been there.

21 Q It is separate, the camper away from the mobile home,
22 right?

23 A It is in the backyard, yes sir.

24 Q But it is a camper back there and that is where Ms.
25 Couey lived?

1 A I didn't know that at the time.

2 Q When you went in there it was obvious that she lived
3 there, women's stuff all over the place?

4 A There was a ton of stuff in that camper, more than
5 you could fill this room probably, it was a lot of stuff.

6 Q Okay. A lot of women's stuff?

7 A I don't recall it being women's stuff, I don't recall
8 anything in particular as far as gender items.

9 Q Let me show you Defense exhibits 2 and 3. You want
10 to hold that up. That is a picture of the camper which is
11 away from the mobile home, right?

12 A Okay.

13 Q Do you agree with that?

14 A The camper, as far as I remember, was in the
15 backyard. I don't know the distance between it and the
16 mobile home.

17 Q If it has been previously testified, it is a hundred
18 yards. Do you agree with that?

19 A I can't tell you that right now, I don't know. If
20 that is what has been testified to then, yes sir. I
21 didn't measure it when I went back there, that is the
22 first time I had ever been there.

23 Q Let's look at that film that was put into evidence.

24 (Whereupon, the video was played again for the jury.)

25 Q So you would agree with me that that is a separate

1 location, right?

2 A I don't understand what you are asking me, sir. I
3 don't know how far it was behind the trailer but it was
4 directly behind the trailer, right there in the edge of
5 the wood line.

6 Q The camper is out there, it's alone, it is a separate
7 unit, right?

8 A Yes, sir. It is not attached to the trailer, no sir.

9 (Whereupon, the video continued to play.)

10 Q Y'all are going around the area that, you are set up
11 there. There you are back, where are you and where you
12 are going in?

13 A That is my camera we are watching right now.

14 Q So you are back up?

15 A I am behind Chief Louis, yes sir.

16 Q Okay.

17 (Whereupon, the video continues to play.)

18 Q That is Chief Louis going in, right?

19 A Yes, sir.

20 Q Who is that right there?

21 A That is the Couey lady.

22 Q That is Ms. Couey?

23 A Yes, sir.

24 Q And she is right there. Now, look around, does it
25 appear that she was on the bed asleep or asleep on the bed

1 there?

2 A Does it appear that? She was standing up when we
3 went in.

4 Q Okay. She is standing up. But that is her bed over
5 on the right, right?

6 A I don't know whose bed it is, sir.

7 Q Okay.

8 (Whereupon, the video continues to play.)

9 Q Is that you wrestling with him?

10 A Yes, sir. Whatever you see --

11 Q That is your camera?

12 A Yes, sir.

13 (Whereupon, the video continues to play.)

14 Q He is asking to see the search warrant at that point,
15 right? Is that what he said?

16 A Yes.

17 Q Okay.

18 (Whereupon, video continues to play.)

19 Q Was that you that shot him with the taser?

20 A That is a dry gun, (phonetic), you take your
21 cartridge off and then it is direct contact. Yes, sir.

22 (Whereupon, video continues to play.)

23 Q Y'all patted him down right there?

24 A Trying to get our composure.

25 (Whereupon, video continues to play.)

1 Q Is that him, is that a police officer going in his
2 pocket right there?

3 A Nobody else there but police officers.

4 Q So that is a police officer going in his pocket right
5 there, right?

6 A Yes, sir.

7 (Whereupon, video continues to play.)

8 Q Y'all are checking him down right there?

9 A No sir, absolutely not. No sir, he is holding his
10 leg right there when I get ready to remove the probes. If
11 he was going to search his pocket, he had already pulled
12 out something if there was anything in there.

13 Q Or you could have searched and there wasn't anything
14 in there, right?

15 A No sir, his hands still wouldn't have stayed in there
16 that long. It is only one pocket he was going for right
17 there if he is that high up.

18 Q Thank you. Was Ms. Couey placed under arrest at that
19 time?

20 A No sir, everybody was detained. They were detained
21 at that time, yes sir.

22 Q But the purchases for drugs had been against her,
23 right?

24 A I am not sure of that.

25 Q You weren't aware of what was in the search warrant?

1 A I didn't, it wasn't my search warrant, no sir.

2 Q You were just there?

3 A I was a member of the drug enforcement unit,
4 City/County drug enforcement unit. We do a search
5 warrant, I participated. Yes, sir.

6 Q Did you do any investigation or anything afterwards?

7 A No, sir.

8 Q Okay. You didn't check the drugs for any kind of
9 prints or DNA or anything?

10 A It is not my job, no sir.

11 Q Did you take a statement from him?

12 A I don't believe so, no sir.

13 Q Okay. Thank you. No further questions.

14 THE COURT: Any redirect, Solicitor?

15 MR. BROWN: Just briefly.

16 REDIRECT EXAMINATION

17 By Mr. Brown:

18 Q Agent McClinton, when Mr. Yarborough asked you,
19 drawing the attention to, it is like Officer reaching down
20 to Mr. Derrick, let me get to that point in time. What
21 are you about to do?

22 (Whereupon, the video is played for the jury.)

23 A Put gloves on and pull the probes out of his back.

24 Q And we are looking at that video, Mr. Derrick's hands
25 are behind his back, correct?

1 A Yes, sir.

2 Q When you are pulling probes out of somebody's back,
3 is it better if they don't move?

4 A Absolutely. You put your hand around where the probe
5 is at, kind of keep tension down on it.

6 Q And that hand on that officer who is holding right
7 now, is not moving, is it?

8 A No, sir.

9 Q Keep going forward, the arm is still steady?

10 A Yes, sir.

11 Q Right there?

12 A He is holding his arm down.

13 Q Is there a chain between the cuffs?

14 A Yes, sir.

15 Q Who does it appear his hand is holding? It is not in
16 Phillip Derrick's pocket, is it?

17 A Absolutely not, no sir.

18 Q Holding in place so you can take the probes out?

19 A That's right.

20 Q No further questions.

21 THE COURT: Anything in recross?

22 MR. YARBOROUGH: Nothing further, Your Honor.

23 THE COURT: You can step down, sir. Call your next
24 witness.

25 MS. HOFFMAN: The State calls Jamie Lovett.

1 JAMIE LOVETT, being
2 first duly sworn, testified as follows:

3 DIRECT EXAMINATION

4 By Ms. Hoffman:

5 Q Good afternoon, Officer Lovett.

6 A Yes, ma'am.

7 Q Can you spell your name for the record?

8 A Jamison Lovett. It is J-A-M-I-S-O-N; last name,
9 Lovett, L-O-V-E-T-T.

10 Q Officer Lovett, where do you currently work?

11 A City of Greenwood Police Department.

12 Q And how long have you been employed there?

13 A Right at 16 years.

14 Q Do you have any other law enforcement experience?

15 A No, ma'am.

16 Q So you have been with the City the whole time?

17 A Yes, ma'am.

18 Q And other units other than the one you are currently
19 on?

20 A Yes, ma'am. I have worked with the drug enforcement
21 unit which is the joint task force between the City and
22 the County. And also worked with FBI street crimes task
23 unit and U.S. Marshal's.

24 Q Have you had any sort of training in order to be on
25 those groups and units?

1 A Numerous classes and events we have gone to over the
2 years.

3 Q Okay. And have those all tailored towards narcotics
4 and drugs?

5 A Yes, ma'am.

6 Q Okay. Currently what is your position and your job
7 duties?

8 A I am a Captain over the crimes suppression unit at
9 the City of Greenwood. Basically we are tasked to go
10 after narcotics, guns and like local street gangs.

11 Q How did you become involved in the investigation that
12 we are here about today?

13 A I was part of the Greenwood drug enforcement unit at
14 that time. And I was a Lieutenant for the City in the
15 drug enforcement unit. Chief Louis was working in the
16 drug enforcement unit at the time and he obtained a search
17 warrant and asked me to come along and assist with the
18 search warrant.

19 Q Now, Chief Louis, at the time, he was with the
20 County, correct?

21 A That is correct.

22 Q And is it normal that the agencies assist each other
23 at times?

24 A Yes, ma'am. The drug enforcement unit was both
25 agencies together that worked as one unit.

1 Q Where did that search warrant and investigation take
2 place?

3 A I forget the exact address, it is off Calhoun in the
4 County, I believe.

5 Q If I told you it was 110 Barkwood Lane, would that
6 sound right?

7 A That sounds correct.

8 Q Okay. Where was that address located, what County?

9 A Greenwood County.

10 Q Now, do you normally wear a body camera when you are
11 out in the field?

12 A Yes, ma'am.

13 Q And would you have had it back in 2018?

14 A Yes, ma'am.

15 Q And would you have been wearing on April 9th of 2018?

16 A Yes, ma'am.

17 Q I am going to show you what has been marked as
18 State's exhibit 2. Do you recognize that?

19 A Yes, ma'am.

20 Q How do you recognize it?

21 A It is a DVD copy of my body cam video from that date
22 and also I have initialed it and dated it.

23 Q What is on that CD, is that a fair and accurate
24 representation of the body cam footage from that day?

25 A Yes, ma'am.

1 MS. HOFFMAN: Your Honor, at this time we would ask
2 that State's exhibit 2 be entered into evidence.

3 MR. YARBOROUGH: Without objection.

4 THE COURT: Without objection number 2 into evidence
5 for the State.

6 (Whereupon, State's Exhibit 2 was admitted into
7 evidence.)

8 Q Now, Officer Lovett, you were out at 110 Barkwood
9 Lane for a while that day, correct?

10 A Yes, ma'am.

11 Q If I told you your body cam was about an hour and a
12 half, would that sound about right?

13 A Yes, ma'am.

14 Q So I am going to present this but we are going to
15 skip around just a little bit just because of the length.
16 And if you need to come down off the stand you can.

17 A Okay.

18 (Whereupon, a DVD was played for the jury along with
19 testimony.)

20 Q And so here this is you just in your car?

21 A Yes, ma'am.

22 Q Can you describe what is happening here?

23 A We are walking up to the residence to make contact
24 with the residents in the house. There was a structure
25 behind the house that several agents went to. Other

1 agents went to the house including myself to secure
2 anybody that was inside of the residence at the time.

3 Q And so who did you encounter when you got to that
4 house?

5 A I am not sure who all I encountered inside of the
6 residence, I don't recall.

7 Q The Defendant was not in the house at this time?

8 A No, ma'am.

9 Q There were just other occupants that were there?

10 A That's correct.

11 Q And so, when you went to the house there, did you
12 find any sort of narcotics or any illegal substances
13 there?

14 A Not that I recall.

15 Q Okay. Now, we are going to skip ahead at this point.

16 (Whereupon, the DVD continues to play.)

17 Q What do we see here?

18 A This appears to be the searching the residence, I
19 believe. We were still in the residence at this time.

20 Q So this scene here, is this you leaving that trailer
21 that is at the front of the property?

22 A Yes, ma'am.

23 Q And what are you doing now?

24 A Walking back to the backside of the property where
25 there was, I believe it was like a camper on the back side

1 of the property where we had other officers back there
2 that encountered somebody in, they were out there actively
3 searching I believe.

4 Q So you are just going to assist them at this point?

5 A Yes, ma'am.

6 Q Okay.

7 (Whereupon, the DVD continues to play.)

8 Q Now, that right there, is that the camper where the
9 other officers were located at the time?

10 A Yes, ma'am.

11 Q That white and tan, right there on the right-hand
12 side?

13 A Yes, ma'am.

14 Q And are those power cords running out there from that
15 main house?

16 A Yes, ma'am. If I recall correctly, there were
17 several drop cords that had been run back there.

18 (Whereupon, the DVD continues to play.)

19 Q So as you are approaching that camper, can you see
20 who is there?

21 A I cannot.

22 THE COURT: You can step down if you like, just be
23 sure to speak up loud because you are away from the
24 microphone.

25 Q What are you walking up on there?

1 A I still can't recognize who is standing there.

2 Q That is fine. But who is there on the ground?

3 A I do understand, Mr. Derrick is laying on the ground
4 here, just outside of the camper.

5 Q Okay. And he's there with other officers that were
6 there executing the search warrant?

7 A Yes, ma'am.

8 Q And do you see the Defendant here in court today?

9 A Yes, ma'am.

10 Q Where is he at?

11 A Just seated over here.

12 Q What is he wearing?

13 A Black suit, gray shirt.

14 MS. HOFFMAN: Let the record reflect he has
15 identified the Defendant.

16 THE COURT: So noted.

17 Q Okay. So you walk up here, there are officers with
18 the Defendant, I am going to skip ahead again.

19 (Whereupon, the DVD continued to play.)

20 Q What did you do after you came onto the scene?

21 A Once I got back here I believe I helped them search a
22 little bit inside of the camper. There was a lot of stuff
23 inside the camper at the time so I was helping them to
24 make sure we went through everything inside the camper.

25 Q So where are we here?

1 A This would be inside the camper, just in the, I
2 believe inside the kitchen, little kitchenette area just
3 inside the door of the camper.

4 Q Had officers already been searching this area when
5 you were getting on the scene?

6 A Yes, ma'am.

7 Q And that is who we see here?

8 A Yes, ma'am.

9 (Whereupon, the DVD continues to play.)

10 Q Right here in this scene, what is that on the stove?

11 A It looks like a glass jar, I can't make, maybe a
12 ziplock bag also on the stove.

13 Q Do you recall what they found from this area?

14 A I don't.

15 Q Okay. Were you aware of what officers removed from
16 that house as far as illegal substances?

17 A No, I am not aware of what come from inside the
18 camper.

19 Q Okay. So, we will pick up here. What is happening
20 here.

21 (Whereupon, the DVD continues to play.)

22 A That would be a copy of the search warrant which
23 would have been executed and now they would be logging in
24 everything that would have been taken during the search
25 warrant.

1 Q But you didn't help with that, you are just there
2 kind of offering assistance to the other officers that are
3 there?

4 A Correct.

5 Q Okay. Is that the Defendant still propped up there
6 against the camper?

7 A Yes, ma'am.

8 (Whereupon, the DVD continues to play.)

9 Q Can you identify who is here in this view?

10 A That is Chief Louis, Sergeant McClinton would be,
11 Chief Louis is on the left; Sergeant McClinton would be
12 here in the middle placing on his gloves and I believe
13 that is Matt Noblin who works with the County, on that far
14 right. That is Chief Chad Cox standing just behind Chief
15 Louis.

16 Q Okay. And it appears Officer McClinton is putting on
17 gloves?

18 A Yes, ma'am.

19 Q Can you hear what Officer McClinton is saying there,
20 just asking the Defendant if there is anything he needs to
21 be aware of?

22 A That's correct.

23 Q Okay.

24 (Whereupon, the DVD continues to play.)

25 Q I am going to back this up just a hair there. So at

1 this point is the Defendant being cooperative with law
2 enforcement?

3 A No, ma'am.

4 Q He is refusing to stand up there?

5 A Yes, ma'am. He keeps trying to roll over so the
6 right side of his body is laying on the ground.

7 Q Could you tell why he was trying to do that?

8 A We later found out that he had some meth in his right
9 pocket that he was trying to keep officers from searching
10 and getting to.

11 Q Let me go back to this part. There they are pulling
12 things out of his pocket?

13 A Correct.

14 Q And right there, I believe Officer McClinton has
15 already testified, what did he do while y'all were trying
16 to search him?

17 A He basically urinated on hisself.

18 Q And then y'all were still able to pull that plastic
19 baggie out of his pocket?

20 A Yes, ma'am.

21 Q And what was in that plastic baggie in his right-hand
22 pocket?

23 A It was a clear crystal substance that later field
24 tested positive for meth.

25 Q And was that the larger baggie that was obtained that

1 day?

2 A Yes, ma'am.

3 Q You can have a seat.

4 A Thank you.

5 Q That is the big bag right there?

6 A That is correct.

7 Q The Defendant, he was complaining about having some
8 back pain?

9 A Correct.

10 Q Did y'all call an ambulance for him?

11 A Yes.

12 Q So they were able to check him out at that point?

13 A Yes.

14 Q Okay. No further questions.

15 THE COURT: Any cross-examination, Mr. Yarborough?

16 CROSS-EXAMINATION

17 By Mr. Yarborough:

18 Q Did you make the videotape that has been admitted
19 into evidence?

20 A I am not sure who actually recorded the DVD over.

21 The body cam did belong to me and the entire video was
22 shot from my body cam which would have been attached to my
23 vest. Once we do that we download it to a server and then
24 the DVD is made.

25 Q Is there a point in the running of your video that

1 the video cuts off and it is like a blank spot for a
2 while?

3 A Not that I am aware of.

4 Q You are the, the video goes from start to finish and
5 there is not, there is not a 45 minute gap, there is not a
6 gap in the, have you reviewed it all?

7 A Not the entire thing, no sir.

8 Q But the tape you brought is the entire thing, right?

9 A Yes, sir.

10 Q And it is in evidence for the jury to look at if they
11 would like to?

12 A That is correct.

13 Q And it, you go in there and you are in the camper and
14 you see where there is a lady's makeup and a mirror and
15 all kinds of stuff over on the left while you are making
16 that tape, right?

17 A I don't recall everything that was in the camper.

18 Q Did you recall what you just played?

19 A I recall what I just watched, yes.

20 Q And in that there is some makeup, there is a ladies
21 mirror, there is a place where a woman would put on
22 makeup, isn't that correct?

23 A I am not refuting but I don't recall honestly.

24 Q And there is all kinds of little knickknacks like a
25 woman's knickknacks that are in there?

1 A Correct.

2 Q And so it looked like Ms. Couey, she was living
3 there, right?

4 A I am not sure who else was living there. I didn't
5 know who was living in the residence or in the camper at
6 the time.

7 Q It appeared that a woman was living there, right?

8 A It appeared that she could have been staying there.

9 Q And talked about my client urinated on himself, he
10 had been shot by a taser three or four times, that is not
11 unusual for somebody to urinate on themselves after they
12 have been shot by a taser, right?

13 A No, that is not unusual.

14 Q And they placed Ms. Couey under arrest while you were
15 there?

16 A I don't recall.

17 Q Whatever you saw is on that video?

18 A Correct.

19 Q So the jury can look at it if they want?

20 A Correct.

21 Q And you went in the main house with your video
22 camera?

23 A Yes.

24 Q And that is on there as well?

25 A Yes, sir.

1 Q And that is where my client and his wife, Jennifer
2 Higdon lived, isn't that correct?

3 A Again, I am not sure who lived in either spot.

4 Q That was his mother there when you opened the door,
5 right?

6 A Again, I don't know how anybody was related to each
7 other.

8 Q There were some children there?

9 A Again, I don't recall everybody that was there. This
10 has been a while back.

11 Q But the video speaks for itself?

12 A Right.

13 Q That is why you keep the video, right?

14 A Correct.

15 Q Okay. And you would agree with me that, from the,
16 where my client lived back to that camper was about
17 hundred yards?

18 A From the trailer to the camper, that would be about
19 right.

20 Q About hundred yards. And we just, you would agree
21 with me at this point, a woman was living in there?

22 A Again, I still don't know who was living in the
23 camper or in the residence.

24 Q Okay. But the video speaks for itself?

25 A Correct.

1 Q You were not there when they originally went in the
2 camper, right?

3 A No sir, I was not.

4 Q You went in the, what was your role. When you got
5 there what was your role?

6 A We had split up into two teams. One team went to the
7 camper in the back; one team went to the residence in the
8 front of the property and I was one of the people that
9 went to the residence at the front of the property.

10 Q And how long were you there before you went in?

11 A I don't recall the amount of time.

12 Q Do you remember seeing that black BMW pull up?

13 A Yes, I do remember that car.

14 Q Okay. And my client got out of it?

15 A I don't know who got out of it.

16 Q You can't remember that.

17 A I remember the vehicle.

18 Q Okay. I don't have any further questions. Thank
19 you.

20 THE COURT: Any redirect, Solicitor?

21 REDIRECT EXAMINATION

22 By Ms. Hoffman:

23 Q Officer Lovett, you stated you saw a black BMW pull
24 up when you were inside the main house?

25 A Yes. I can't recall if I was inside the house or

1 still standing outside the house. I remember a black BMW
2 pulling up in the front yard.

3 Q But when you got to the back part of the property
4 where the camper was, the Defendant had already been
5 detained, correct?

6 A That's correct.

7 Q So if he would have gotten out of his car and walked
8 past you to go to that camper, you would have seen him?

9 A That's correct.

10 Q Okay. No further questions.

11 RECROSS-EXAMINATION

12 By Mr. Yarborough:

13 Q I thought you just testified that when you were
14 outside watching the trailer, before you went in, you saw
15 the black car pull up?

16 A No, sir. I said I remembered the black BMW pulling
17 up in the front yard.

18 Q Okay. And who was in that car?

19 A Again, I don't recall who was in the car.

20 Q Was there anybody detained that came up in that car?

21 A It would have been our normal practice to detain
22 whoever come up on the property at the time. It would
23 have been our practice to detain whoever that was.

24 Q Are you aware of anybody being detained?

25 A Again, whoever pulled up at the house would have been

1 detained.

2 Q Do you have any video of who pulled up at the house?

3 A I don't know if it is on there or not.

4 Q Okay.

5 A I don't know that I was out there at the time.

6 Q Okay. Thank you.

7 THE COURT: You can step down, sir. All right,
 8 ladies and gentlemen, it will be a good time for a lunch
 9 break. And I want you back at 2:15. I am going to ask
 10 you to do one thing for me. If you decide you got to a
 11 local restaurant to eat lunch keep your juror badge
 12 visible. And the reason for that is, is that lawyers,
 13 witnesses, Judge may be in that same restaurant and
 14 certainly we would want to recognize you and not say
 15 anything about the case where you could overhear. So we
 16 may not recognize your face but we would certainly
 17 recognize your juror badge. So that is just if you go to
 18 a local restaurant. Okay. Again, remind you no
 19 discussions among yourselves about this case. Anybody
 20 that you come into contact with, no research into this
 21 case. Have a good lunch and we will see you at 2:15.

22 (Whereupon, the jury was excused for a lunch break.)

23 THE COURT: Concerning exhibits. What we need to
 24 make sure, just because it was put into evidence for the
 25 purposes of pretrial, it needs to be reoffered again for

1 the trial. Just because it is pretrial it does not
2 automatically mean it is an exhibit, an evidentiary
3 exhibit for trial. So just make sure, if you want
4 something in at trial make sure it gets in at trial.
5 Okay. Anything else before we break from the State?

6 MR. BROWN: Not from the State. I think, Judge,
7 going to what you were just saying. I think we have moved
8 all of ours in, like reissued it.

9 THE COURT: What you may want to do, either now or
10 before you go eat lunch, the three lawyers get together
11 and go through and see what is in. And if something was
12 put in pretrial and hadn't got into evidence yet, then we
13 need to deal with it.

14 (Whereupon, a lunch break was taken.)

15 THE COURT: Is the State ready?

16 MR. BROWN: Yes, Your Honor. We will go through
17 these fairly quickly. We will have Greg Allison and
18 Matthew Womack with the Sheriffs Office and both evidence
19 custodians who transported down to SLED. And then we have
20 Lynn Black, she is the analyst. So I wanted to, we were
21 going to make the SLED internal chain a Court's exhibit.

22 THE COURT: Okay.

23 MR. BROWN: To satisfy, if anything future about the
24 chain, of who these people are. Matthew Womack actually
25 takes it down to SLED and then submits it into a locker.

1 Doris Yarborough then moved it from that locker in the
2 drug evidence intake and then a forensic technician,
3 Charlotte Pitts then moved it to, gave it to Lynn Black.
4 And I know in a number of other cases we always moved the
5 chain in as a Court's exhibit.

6 THE COURT: Right.

7 MR. BROWN: And then the analyst will then testify
8 according to Brockmeyer and Hatcher, to fill those gaps.

9 THE COURT: And I think, Mr. Yarborough, you had
10 indicated at least yesterday that you did not anticipate
11 any issue with the --

12 MR. YARBOROUGH: My client wanted me to look at one
13 thing.

14 THE COURT: Sure, yes.

15 MR. YARBOROUGH: Okay.

16 THE COURT: This is Court's number 4.

17 (Whereupon, Court's Exhibit 4 was marked for
18 identification only.)

19 THE COURT: Is the State ready for the jury?

20 MR. BROWN: Yes sir, Judge.

21 THE COURT: Is the Defense ready for the jury?

22 MR. YARBOROUGH: Yes sir, Your Honor.

23 THE COURT: Let's bring the jury out.

24 (Whereupon, the jury came into open court at
25 approximately 2:25 p.m.)

1 THE COURT: Let the record reflect the jury is back
2 in. Is the State ready to call its next witness?

3 MR. BROWN: Yes, Judge. The State calls Greg
4 Allison.

5 Greg Allison, being
6 first duly sworn, testified as follows:

7 DIRECT EXAMINATION

8 By Mr. Brown:

9 Q Good afternoon.

10 A Good afternoon, sir.

11 Q State your full name.

12 A My name is Gregory Lee Allison.

13 Q And where do you work?

14 A At work at Greenwood County Sheriffs Office.

15 Q And what is your role there?

16 A I am the evidence technician.

17 Q How long have you been with the Greenwood County
18 Sheriffs Office?

19 A I have been with them approximately 12 years.

20 Q And how long have you been the evidence technician?

21 A 10 years.

22 Q What type of training have you had to be a Sheriffs
23 Deputy?

24 A I did the National Certification from the University
25 of Tennessee for forensics, crime scene investigating and

1 evidence.

2 Q So crime scene investigating and evidence?

3 A Yes, sir.

4 Q And before you went to Tennessee for that
5 certification, you went through Class I training down --

6 A Yes, I went to the Academy down in Columbia. And I
7 also served 80 hours at the City PD as well under the
8 supervision of Kenny Griffin.

9 Q Now, back in 2018, April 9th of 2018 you were the
10 evidence custodian at that time?

11 A Yes sir, I was.

12 Q And who all, who is your backup evidence custodian?

13 A My backup at the time was Wes Love and also Matthew
14 Womack.

15 Q And now, Wes Love, he moved to greener pastures, is
16 that right?

17 A Yes sir, he has.

18 Q And Matthew Womack, is he still with you?

19 A Yes sir, he is. He will assist sometimes when we
20 need him.

21 Q And so he is the other evidence technician?

22 A Yes, sir.

23 Q And then besides the two of you who else has a key to
24 the evidence room?

25 A That's all that I am aware of.

1 Q Okay. Sheriff Kelly?

2 A He does have one, yes sir.

3 Q So it would be you, Womack and Kelly?

4 A Yes sir, that is correct.

5 Q And nobody else has keys to get into that evidence
6 locker?

7 A Not to my knowledge.

8 Q Now, back on April 9th of 2018 are you aware that
9 there was a seizure of drugs and other drug paraphernalia?

10 A Yes, sir. At the time my basic duty is to come in
11 and empty all the evidence lockers and process any
12 evidence that may need for further processing. It is for
13 longterm storage, short term storage or also for
14 submitting to SLED and maintain chain of custody and the
15 integrity of the evidence.

16 Q And that last thing you said, maintain custody and
17 integrity of the evidence. Why is that?

18 A What it does, it makes sure the evidence is actually
19 placed into that locker and into longterm, short term
20 storage or either sent to SLED is actually what, you know,
21 from point A to point B, which is from the locker to
22 storage or to SLED.

23 Q And do you and the other officers, the Greenwood
24 County Sheriffs Office go to great lengths to maintain
25 integrity and transporting these seizures?

1 A Yes, sir. Basically what happens is once the officer
2 decides that he wants to submit that evidence into the
3 evidence department, it goes through a tracking system
4 which is downstairs in the evidence locker, where he will
5 submit in a tracking system and he will pick a locker and
6 put that evidence in. If he wants it to go to SLED he
7 will place in a Best Pack which contains an envelope,
8 plastic sealed bag and a chain of custody and also a
9 processing sheet.

10 Q I want to show you what has been marked as State's ID
11 as number 1. Will you take a look at that and see if you
12 recognize it?

13 A Yes sir, I do.

14 Q What is that?

15 A That is actually the Best Pack plastic bag that I was
16 telling you about that is sealed once the evidence is
17 placed in it. It is sealed and will not be opened until
18 it gets to SLED.

19 Q And, again, is that to make sure nothing is taken or
20 added to it?

21 A That's right. Once the officer places it in this
22 bag, he seals it, he signs it and he dates it. After that
23 it will not be opened again until it receives, SLED
24 receives it.

25 Q And in this case, do you happen to have your chain of

1 custody report with you?

2 A No sir, I don't.

3 Q Do you recognize that report?

4 A Yes sir, I do.

5 Q What is that?

6 A This is the internal chain of custody that is
7 provided through the system, the actual tracking system
8 that we have at the sheriffs department.

9 Q And who submitted that into the evidence locker, into
10 the Greenwood County Sheriffs Office?

11 A It says locker 10 is Matt Noblin.

12 Q And when was that?

13 A This is on 4/11/2018.

14 Q What did he submit in that locker?

15 A He submitted, the very top it shows he submitted
16 \$107.00 dollars in currency.

17 Q \$107.00 dollars in currency?

18 A Yes, sir.

19 Q And were the other things that Matt Noblin turned in,
20 were those taser cartridges?

21 A Yes, sir.

22 Q Moving on to the back, where actually the narcotics
23 are found.

24 A Yes, sir.

25 Q Who submitted that?

1 A Bryan Louis.

2 Q And were those multiple baggies submitted in?

3 A Yes sir, they were.

4 Q What else was submitted in, along with the drugs?

5 A He submitted some paraphernalia as well, drug
6 paraphernalia.

7 Q Baggies, scales, of that nature?

8 A Yes, sir.

9 Q Once it is there at the Greenwood County Sheriffs
10 Office, how do you prepare or what is done to get that, in
11 this case, the narcotics down to SLED to be tested?

12 A Basically what happens is, is we go down twice a
13 month, sometimes four times a month depending on the work
14 load. We go ahead and we do a pre-submission through,
15 what they call iLab, it is basically the same thing, it is
16 a tracking system like we have at the Sheriffs Office.
17 And it does, what it does is it has us prepare to ready to
18 receive at SLED once we arrive there. We have a
19 submission form, we have a time to go to SLED. Once we
20 arrive there we clock it in on a time clocked stamp and we
21 place it in a locker. It takes an hour and twenty minutes
22 to get there, plus we preadmit our evidence back at the
23 Sheriffs Office through iLab. It takes us about 12
24 minutes to submit it and get out of there.

25 Q And when this case, when Bryan Louis turned this in,

1 the Sheriffs Office had a number on this case, right?

2 A Yes, sir.

3 Q And then once it is entered in ilab, is it given a
4 new number?

5 A Yes, sir. It is given, what they call a lab number
6 for SLED. SLED creates their number for a tracking system
7 in their facility. So what they do is each person that
8 gets this piece of evidence has to scan for it with their
9 card. Each one of them have a card, they have one as well
10 at SLED and it has a bar-code on the back of it. So what
11 they do is they will take that card and scan it with the
12 scanner, then they will scan this package which is right
13 here on the label. It tells them that they are now in
14 custody of this piece of property right here.

15 Q And since you are the evidence custodian, the primary
16 evidence custodian at Greenwood County Sheriffs Office,
17 you mentioned that Matthew Womack is also a secondary?

18 A Yes, sir.

19 Q Is he the one that took this down to SLED?

20 A Yes sir, he will sometimes, when I am unavailable, to
21 take certain evidence now at certain times. He is allowed
22 and capable of doing that, very successfully.

23 Q So between the dates of 4/9/2018, when it was
24 submitted into the Greenwood County Sheriffs Office, it is
25 taken under your care and custody?

1 A Yes, sir.

2 Q And when was this checked out to be taken to SLED?

3 A Sir?

4 Q When was this taken out to be taken to SLED by
5 Officer Womack?

6 A 9/25, give me just a second. It is showing
7 4/12/2018.

8 Q And 4/12 or 4/13?

9 A I am sorry, 4/13, I apologize.

10 Q 4/13/2018?

11 A Yes, sir.

12 Q At that point it would be out of the Greenwood County
13 Sheriffs Office and down to SLED?

14 A Yes, sir.

15 Q After the testing of this, were you the one, in fact,
16 and brought it back, went down to retrieve it?

17 A Yes, sir. Usually what happens is, I place an
18 appointment to what time I am going down, going down
19 through evidence submission at SLED. And they will ask --
20 I pick up when evidence is ready to be returned back to
21 the sheriffs department.

22 Q And you did that on, it looks like October 12th of
23 2018?

24 A Yes, sir.

25 Q No further questions.

1 THE COURT: Mr. Yarborough, any cross-examination.

2 CROSS-EXAMINATION

3 By Mr. Yarborough:

4 Q You are the evidence custodian, right?

5 A Yes, sir.

6 Q I mean, you don't really know anything about the
7 case?

8 A No sir, I don't.

9 Q And you just sent it down to process, is pretty
10 normal?

11 A That's right, yes sir.

12 Q Thank you. No further questions.

13 THE COURT: You can step down, sir.

14 MR. BROWN: State calls Matthew Womack.

15 Matthew Womack, being
16 first duly sworn, testified as follows:

17 DIRECT EXAMINATION

18 By Mr. Brown:

19 Q Good afternoon, Officer Womack. Tell me your full
20 name?

21 A Matthew Womack.

22 Q And where do you work?

23 A Greenwood Sheriffs Office.

24 Q How long have you been with the Greenwood Sheriffs
25 Office?

1 A Five years.

2 Q And what is your role there?

3 A I am an investigator and part-time, secondary
4 evidence custodian.

5 Q And prior to the joining of Greenwood County Sheriffs
6 Office, where did you work?

7 A Newberry County Sheriffs Office.

8 Q How long were you there?

9 A Six and a half years.

10 Q And what was your role there?

11 A I was an investigator there as well.

12 Q And before that you went through the Academy to
13 become certified as a law enforcement officer?

14 A That's correct.

15 Q In this case, did you actually go out on 4/9/2018 for
16 this search?

17 A I did not.

18 Q Your role strictly in this case, is you took it to
19 SLED, is that right?

20 A That's correct.

21 Q In being a secondary evidence custodian for the
22 Greenwood County Sheriffs Office, did you have the
23 opportunity to take State's ID number 1 down to SLED to be
24 tested?

25 A I did.

1 Q And at that time when you checked it out was the Best
2 Kit still in place, there was no tampering or no cutting
3 or anything like that?

4 A Absolutely, it was sealed.

5 Q If there was would you have made a note of it?

6 A Absolutely.

7 Q And you actually took it down on 4/12/2018?

8 A That's correct.

9 Q And then SLED would have checked it out at the
10 evidence locker on 4/13?

11 A That's correct.

12 Q And who submitted that into evidence at the Greenwood
13 County Sheriffs Office?

14 A It would have been the investigator.

15 Q Bryan Louis?

16 A Yes.

17 Q No further questions.

18 MR. YARBOROUGH: No cross.

19 THE COURT: You can step down, thank you. Call your
20 next witness.

21 MS. HOFFMAN: The State calls Lynn Black.

22 Lynn Black, being
23 first duly sworn, testified as follows:

24 DIRECT EXAMINATION

25 By Ms. Hoffman:

1 Q State your name for the record, please.

2 A My name is Lynn Black.

3 Q Ms. Black, what agency do you work for?

4 A I work in the drug and analysis department in the
5 forensic services laboratory at the South Carolina Law
6 enforcement Agency commonly known as SLED.

7 Q How long have you worked there?

8 A I have worked there, it will be 15 years next month.

9 Q And can you tell us a little bit about what your
10 duties consist of working for SLED?

11 A I receive analyzed substances brought in by law
12 enforcement personnel. And then I determine whether they
13 are controlled substances or not.

14 Q And what kind of training or qualifications do you
15 need in that capacity?

16 A Would you like me to tell you what my qualifications
17 are.

18 Q Yes ma'am, that is fine.

19 A I have a Bachelor's of Science Degree in Chemistry
20 from Kentucky, Wesleyan College. A Certificate of Better
21 for Technology from the University of Louisville and a
22 Master of Science Degree in Forensic Science from Marshall
23 University. Before I worked at SLED I was also a drug
24 analyst at the Georgia Bureau of Investigations in Atlanta
25 for about eight years. And then I came to SLED shortly

1 after that.

2 Q Now, you mentioned that you -- substances determine
3 whether or not they are controlled substances. Is that
4 correct?

5 A That's correct.

6 Q How many times you say you would have done that?

7 A I have probably analyzed over 20 thousand cases, I
8 would say, in my 22 years.

9 Q Now, have you been qualified as an expert in court
10 before?

11 A Yes.

12 Q How many times would you say?

13 A 145, all total, from Georgia to here including
14 Federal Courts and State Courts.

15 Q Have you had the occasion to testify as to the
16 chemical character of these controlled substances?

17 A Yes.

18 MS. HOFFMAN: Your Honor, at this time the State
19 would offer Ms. Black as an expert in chemistry and drug
20 analysis.

21 MR. YARBOROUGH: No objection.

22 THE COURT: Without objection, Ms. Black is found to
23 be an expert in that, in those two areas. Ladies and
24 gentlemen, when the Court declares a witness as an expert
25 it means that, is entitled to render certain opinions

1 concerning matters in their particular field of expertise.
2 Ordinarily witnesses are not allowed to offer opinions,
3 they are lay witnesses. There are a few exceptions there
4 but primarily they are not allowed to give opinions,
5 however experts are. Now the fact that I have declared
6 Ms. Black to be an expert does not mean that you have to
7 give her testimony more weight than any of the other
8 witnesses in this case. It is up to you to give whatever
9 weight you think her testimony deserves. You may proceed,
10 Solicitor.

11 Q Ms. Black, when local agencies bring things to you to
12 be tested, do you keep a documentation of that?

13 A Yes, we do.

14 MS. HOFFMAN: I beg the Court's indulgence.

15 THE COURT: Yes.

16 Q Ms. Black, I am going to show you what's been
17 previously marked as a Court's exhibit. Do you recognize
18 that I have just shown you there?

19 A Yes ma'am, it is a copy of the chain of custody that
20 we use at SLED at the laboratory to track where evidence
21 is at any time.

22 Q So when it comes from the local agency to SLED, are
23 you necessarily the first person that sees it?

24 A I am usually not.

25 Q If you don't mind I am going to just swap this with

1 you because this is actually a Court's exhibit there.

2 Okay. So based on the internal chain, who is the first
3 person that received it?

4 A The person who receives it is usually the person in
5 evidence control and forensic technician. In this
6 particular case it was Doris Yarborough.

7 Q And as the technician and in this case, Ms.
8 Yarborough, would she have done anything with the actual
9 submission?

10 A She would have received the submission and entered
11 the information into our computer system and then it would
12 have been assigned a case number. And she would have
13 printed out a bar code to that and placed it on the
14 evidence and then placed it into, usually it is called the
15 drug evidence intake storage.

16 Q So it is kept in a secured location after she intakes
17 it and puts the corresponding numbers and stuff on it.
18 And then where does it go from there?

19 A From there it waits until, you know, either me or one
20 of my colleagues is ready to receive evidence. Usually I
21 go down and my colleagues do the same, we will go down and
22 pick up a batch of cases, you know, 20, 30, depends on
23 what we are in the mood for. Go down and pick up some
24 cases and I neglected to say, when she, when the
25 technician who enters all the information and prints that

1 bar-code, she scans that bar-code to herself. Everybody
2 at SLED has a bar code that is associated with them so
3 when that came in the door and she printed that label, she
4 scanned it to herself so that is why her name is the very
5 first one on this list because this is how we keep track
6 of it. And so then when she, then she would scan it to
7 where she put it in the vault which is the drug evidence
8 intake storage. So then the next person who goes to
9 retrieve that evidence, so they were going to give that
10 case to me, in this case. They would scan that evidence
11 to themselves and then eventually scan it to me. So then
12 you have Ms. Yarborough, intake storage; and then the next
13 person on this list which happens to be Charlotte Pitts.
14 And then she scanned to me so my name appears after that.
15 So anywhere this evidence goes it gets scanned using that
16 bar code and using our bar codes for the place it goes as
17 a bar code as well.

18 Q And all of that is necessary as far as your SLED
19 protocol to make sure you know where the drugs are, who is
20 touching it and just so that you have that chain to
21 establish to where it is no matter what, correct?

22 A Exactly, yes.

23 Q Now, is there a way that you correspond to, in this
24 case, the Greenwood County Sheriffs Department, is there a
25 corresponding number for that?

1 A That is what the first person who took it in, Doris
2 Yarborough, would put in that information, who it was
3 submitted by and I believe there is something that they
4 have to sign. And that usually records their signature or
5 definitely their name so that shows up at the very top of
6 this page that says it was submitted by, in this case, M.
7 Womack of the Greenwood County Sheriffs Office. So and
8 then at the end of the process, the same thing, it would
9 show who picked it up as well.

10 Q I am going to show you what has been previously
11 identified as State's Exhibit 1. Do you recognize that?

12 A I do.

13 Q And how can you identify it?

14 A I can identify the inside package that says, yellow
15 sticker, that shows the case number, the bar code. It
16 also, this inner package has that number written by myself
17 and it has got my initials and the date that I opened it
18 on there as well.

19 Q What was the date on that?

20 A The date that I opened it?

21 Q Yes, ma'am.

22 A That would be August 2nd of 2018.

23 Q And can you tell on there when it was submitted for
24 analysis?

25 A According to this record, Exhibit number 4, it was

1 submitted April 13th of 2018.

2 Q So in that duration that has been under the
3 continuous care, custody and control of SLED?

4 A That's correct.

5 Q Following those protocols that you have already
6 outlined previously, correct?

7 A Yes.

8 Q Okay. Now, is that in the same condition now as it
9 was when it was received?

10 A Not really. Aside from this outer package, I believe
11 it is something, either the Sheriff - or you guys did.
12 The inside bag, that is how I placed it in there. But it
13 actually comes in, this bag in here that has the blue trim
14 stuff on it, it comes in that. When we take out the
15 evidence we fold it up and then put it inside this other
16 plastic bag that is inside this outer one. It is called a
17 K-pack, just what that manufacture calls it. So that is
18 actually the SLED Best Kit bag inside there. So, you
19 know, it is very typical for us to take that out and place
20 it in this bag. And I guess just want to keep it safe and
21 place it in this bag.

22 Q So when you would have received that at SLED it would
23 have been in that interior packaging?

24 A Yes.

25 Q And it would have been sealed when it came to you?

1 A Correct.

2 Q Now, would you have notated that it was in that
3 tamper resistance packaging or if it had been tampered
4 with, I suppose?

5 A Yes. Inside this bag or on this bag, I wrote the
6 case number and my initials. I also wrote seal intact.
7 So if it had not been intact I would have said seal not
8 intact and I would have made a note on my worksheet. So
9 in this case this inner bag was sealed when I received it.

10 Q And when you did receive it and you opened it up,
11 what did you do with what was inside at that point?

12 A When I received it I would make sure it was sealed so
13 that I could write seal intact. And then I would take out
14 the different items in there and generally and what also
15 comes with it is what is called a Best Request. It is
16 just a paper that tells, had the information from the
17 officer about who this, who they got this from, date and
18 agency case number. But it also usually has a record of
19 what is inside, what the evidence is in there. And in
20 this case it had specific things. And I usually try to go
21 by whatever they write there and try to do it in order of
22 what they put it so that they can easily follow what they
23 put down on that paperwork. And they can usually follow
24 what my report says.

25 Q And based off of that information what was inside

1 that Best Pack?

2 A There were several plastic bags, ziplock bags
3 containing various things. There was powder substance;
4 there was blue tablets and some crystal substance.

5 Q And did you do an analysis on those things?

6 A I did.

7 Q What test did you do to determine what those
8 substances were?

9 A For the powder substance and the crystal substance I
10 performed a chemical or color test on all of those. That
11 is a test where you are taking a little bit of a sample
12 and you are subjecting it to specific chemicals and you
13 are looking for a color change. And in that color change
14 can just give you an indication of what that substance
15 might be. It doesn't tell you exactly what it is but it
16 can give you like a class of different compounds. So it
17 is just an indication, it is not a confirmatory. On one
18 of those, the powder substance specifically I did another
19 test called, it is a mouthful, gas chromatography, mass
20 spectrometry. We call it GC/MS for short. And that is a
21 test where you are taking some sample and it goes through
22 two chemical analysis and the results you get out you
23 compare those results to those of known drug standards.
24 And you can, based on both of those tests I can make a
25 positive identification of the substance. So I did, I

1 also did GC/MS on the tablets as well. And I also did
2 another test, another mouthful, fourier-transform infrared
3 spectroscopy. We shorten that to FTIR. And that is
4 another type of test that is a confirmatory test and I
5 usually do that on crystal meth because that is, the
6 crystal substance is usually fairly pure. And that is
7 what is required for this particular test. And so I also
8 run known drug standards through that instrument. It is
9 like to compare the results from a known to the unknown
10 and then that can make a positive identification of the
11 substance that way as well.

12 Q Once you are done during all of your various tests
13 you have outlined, do you come up with an expert opinion
14 as to what those substances are?

15 A Yes.

16 Q And in this case what was that opinion for the
17 substances that were in the Best Pack?

18 A Would you like me to just, line by line here?

19 Q Yes, ma'am.

20 A I have got what is called item 1.1 for me. And it
21 was, I think it was item 1 that was listed on there, on
22 the agencies requests. That was the powder substance and
23 it was positive for methamphetamine.

24 Q What was the weight of that?

25 A This one was a net weight of 0.10 grams.

1 Q And then the next item?

2 A The next item was my item 1.2 and their item 2. And
3 this was 12 blue tablets that had markings on it. One
4 side looked like an R and the other side was 31. That was
5 positive for alprazolam.

6 Q You said there were 12 tablets in that one?

7 A Correct.

8 Q And then item 1.3?

9 A 1.3 which was their item 3, which was a crystal
10 substance. And this turned out to be positive for
11 methamphetamine. And in that weight of this one was 1.28
12 grams.

13 Q And then item 1.4?

14 A 1.4 which is their item 4 was also a crystal
15 substance. And this weighed 2.09 grams of
16 methamphetamine.

17 Q And then item 1.5?

18 A 1.5 which is their item 5 was also a crystal
19 substance. And it weighed, excuse me, it was positive for
20 methamphetamine and weighed 24.64 grams.

21 Q And that bag, based off of the weight, was much
22 bigger than the others?

23 A Correct.

24 Q Now, I don't know if you have this right in front of
25 you, what was the total weight of all of the

1 methamphetamine?

2 A Actually I did calculate before I came in here. I
3 came up with 28.11 grams.

4 Q So there is 28.11 grams of methamphetamine. And then
5 how many tablets were found?

6 A 12.

7 Q And what were those positive for?

8 A I tested one of those and it was positive for
9 alprazolam.

10 MS. HOFFMAN: Your Honor, at this time the State
11 would move Exhibit 1 into evidence.

12 MR. YARBOROUGH: Without objection.

13 THE COURT: Without objection 1 into evidence for the
14 State.

15 (Whereupon, State's Exhibit 1 was admitted into
16 evidence.)

17 Q And, Ms. Black, how many individual bags of meth were
18 in that Best Pack?

19 A Four.

20 Q There were four total. And then you said one of
21 those was much larger than the rest, correct?

22 A Yes.

23 Q And then there were three smaller baggies?

24 A Correct.

25 MS. HOFFMAN: No further questions, Your Honor.

1 THE COURT: Mr. Yarborough, any cross-examination?

2 MR. YARBOROUGH: Yes, sir.

3 CROSS-EXAMINATION

4 By Mr. Yarborough:

5 Q Ms. Black, how are you?

6 A Fine.

7 Q Nice to see you again.

8 A Thank you.

9 Q You get the drugs from, however they come in. So for
10 this, Greenwood down to SLED. You get it and then it is
11 your job to analyze them, right?

12 A That's correct.

13 Q And in this case you analyzed, let's talk about that
14 alprazolam. I can't pronounce.

15 A Alprazolam.

16 Q Alprazolam?

17 A Yes.

18 Q Is that Xanax. Is that what that is, that is Xanax?

19 A Correct.

20 Q And there are like 12 blue tablets of Xanax. You
21 don't know if those had a prescription or anything. But
22 that would be normal for somebody to have a prescription
23 for Xanax?

24 A Some people get it, yes sir. But I have no idea if
25 it was a prescription in this case.

1 Q So those are the Xanax's. And you don't know where
2 those Xanax's came from. You just know you test them and
3 they are Xanax's?

4 A That's correct.

5 Q Now, then you tested four individual baggies, right?

6 A Yes, sir.

7 Q And how, when you test the bag do you remove the
8 drugs from the, from the bag?

9 A Yes, sir. In order to weigh it and get a net weight
10 you have to take the substance out of the bag that it was
11 in. What I generally do is get a piece of weigh paper and
12 place it on the balance and tara which is another fancy
13 word for zeroing out so that weigh paper doesn't have any
14 weight. And then I take whatever is in the bag and then
15 put it on that weigh paper, place that weigh paper back on
16 the balance and then that gives me a net weight of the
17 substance only.

18 Q And what you are, what is your probability of being
19 exact. There is always, what about, a .10 percent. I am
20 using that term, it is .010 percent method of being off a
21 little bit, right?

22 A In this case it is called measurement uncertainty.
23 So, yes, and it is on the report that says for, one
24 weighing, for uncertainty is .01 grams. The measure of
25 uncertainty does not mean we are uncertain about the

1 weight. That just means that this weight could be, so we
2 will say for instance, let's take the second one. It is
3 1.28 grams. So it has got a plus or minus uncertainty of
4 .01. So that means the actual weight could be between
5 1.27 and 1.29. But I happened to weigh it and got 1.28.
6 So that is just the range it could be in so that, that, it
7 is not that we are unsure. I am, it is not that I am
8 uncertain about what the substance is either. So I would
9 say it is positive for meth. I am one-hundred percent
10 sure that that is correct. This one we have a confidence
11 level which has to do with measurement of uncertainty of
12 99.7 percent. But that weight is within that range that
13 has that .01 measurement of uncertainty.

14 Q And when you added all of those individual bags up
15 your, your exact weight was 28.11. Is that right?

16 A Correct?

17 Q So it is conceivable that it could have been under 28
18 grams, right?

19 A No, sir. If you take the 28.11 which is the total
20 and then you add up all of the measurement of uncertainty,
21 so if you add up, you know, .01 or multiple by 5 you, or
22 excuse me, 4 you would get .04. So this, it would be plus
23 or minus .04. So 28.11 minus .04, you are still over 28
24 grams. You are 28.07.

25 Q But you are getting close, right?

1 A You are getting close.

2 Q It is a really close number, right?

3 A It is still over.

4 Q Let me ask you this, did you analyze the, let me stop
5 again, okay. Did you analyze these drugs for cut?

6 A What, like a cutting agent?

7 Q Yes.

8 A No, sir. The powder substance was analyzed on GC/MS,
9 as I said before. That instrument would show if there was
10 any cutting agent. The other, the crystal meth, as I said
11 before, it is usually fairly pure and if it doesn't come
12 out on the FTIR then I will run it on the GC/MS. But it
13 came out perfectly on that FTIR. So I would say, if there
14 was any cut, cutting agent in those crystal bags it was
15 very little.

16 Q And that was, when you are saying that, that was, I
17 think your confidence level on that was 99.7 again. Is
18 that right?

19 A That's for the weight.

20 Q That is the weight. How much, what would be your
21 confidence level on the cut. There is always some cut,
22 right. Nothing is pure?

23 A I can't say that for sure. I obviously don't know.
24 Everything is not pure, yes.

25 Q Everything is not pure --

1 A I can't say that it is or it isn't. I haven't done
2 any studies to do that. But in my experience crystal
3 meth, you know, unless I can see that it is, you know, if
4 it had a cutting agent generally it will come out because
5 they mixed it up pretty well. It would generally show up
6 in the FTIR spectrum. And, you know, looking at my data,
7 it looks pretty good.

8 Q Again, your data would have a little bit of a
9 possibility of being a little bit off. There could be a
10 little bit of cut in there?

11 A It is possible, yes.

12 Q And that little bit of cut would take it below that
13 28 grams as well?

14 A If it is pure meth, possibly, yes.

15 Q But, and like I said, you and I may disagree on this
16 but would you agree with me when I say that nothing is
17 exactly pure?

18 A I can't say one way or the other. I don't do studies
19 like that.

20 Q Okay, okay. Do you, you are at SLED, right?

21 A Correct.

22 Q And often times when you are at SLED you will check,
23 you will check bags and then send them over to other areas
24 at SLED after you sealed it back up for further testing.

25 Is that right?

1 A No, sir. I do all of my own testing.

2 Q What about checking --

3 A Latent prints or some other department doing --

4 Q I mean another department doing something. I mean,
5 you have sent bags over to have them tested for DNA or
6 fingerprints, right?

7 A Correct. Just the bags, not the drugs. We take the
8 drugs out and send them the bags.

9 Q Can you look and see if those bags were tested for
10 either DNA or for fingerprints based on what is in your
11 bag right there?

12 A To my knowledge they weren't.

13 Q They were not, correct?

14 A I don't believe they were.

15 Q And they could have been, right?

16 A They could have been, sure.

17 Q Y'all have that capability at SLED?

18 A That's correct.

19 Q And the drugs were at SLED?

20 A That's correct.

21 Q Thank you. It is always nice to see you.

22 THE COURT: Any redirect, Solicitor?

23 MS. HOFFMAN: Just briefly.

24 REDIRECT EXAMINATION

25 By Ms. Hoffman:

1 Q Ms. Black, on item 1.3, the methamphetamine, it was a
2 crystal substance?

3 A That's correct.

4 Q And that was similar to the crystal substance that
5 was in item 1.4?

6 A That's correct.

7 Q And those are both the two smaller baggies that
8 tested positive for meth?

9 A Yes.

10 Q And are those the same type of crystal substance that
11 were found in item 1.5, the larger bag?

12 A Yes.

13 Q That tested positive for methamphetamine?

14 A That's correct.

15 Q No further questions.

16 THE COURT: Anything in recross?

17 MR. YARBOROUGH: Just a second, Your Honor.

18 THE COURT: Sure.

19 RECROSS-EXAMINATION

20 By Mr. Yarborough:

21 Q You tested four bags, correct?

22 A Four bags that had methamphetamine, correct.

23 Q And those four bags are in that --

24 A I believe so, yes sir.

25 Q And the one larger bag, how much did it have in it?

1 A The larger bag, it had, let me refer to my report;
2 24.64 grams.

3 Q Under 28 grams?

4 A Correct.

5 Q Thank you.

6 THE COURT: You can step down, ma'am, thank you.
7 Ladies and gentlemen, we are going to take a short break.
8 Go back to the jury room, remind you, no discussions about
9 anything related to this case and we will get you back
10 out.

11 (Whereupon, the jury was excused from open court for
12 a break.)

13 THE COURT: We will take a short break.

14 (Whereupon, a short break was taken.)

15 THE COURT: Let's bring the jury in, please.

16 (Whereupon, the jury came into open court at
17 approximately 3:31 p.m.)

18 THE COURT: Let the record reflect the jury is back
19 in. The State?

20 MR. BROWN: Judge, at this time the State rest.

21 THE COURT: Very good. Thank you. Ladies and
22 gentlemen, what we are going to do, I am going to go ahead
23 and let you go for the day. We have got some work, I have
24 got some work with the lawyers on several issues that have
25 arisen so we need to work on that this afternoon. And I

1 want you back at 10:30 in the morning and we will proceed
2 forward with whatever is left on the balance of this case.
3 So get some rest and remember all of my instructions, I
4 don't have to repeat them. I think you know them by now
5 and we will see you at 10:30 in the morning. Have a good
6 evening.

7 (Whereupon, the jury was excused from open court for
8 the day.)

9 THE COURT: FYI, Ms. Couey has consented for Curtis
10 to go to the Detention Center and get her phone. So that
11 is kind of where we are. So let's just be at ease for a
12 minute and we will wait, because they will want to take a
13 look at her phone and then we will kind of figure out what
14 she is going to do. Let's be at ease and then y'all still
15 need to talk about what, if any, previous history that the
16 State would want to impeach on if Mr. Derrick testifies.
17 So y'all need to talk about that too.

18 (Whereupon, a short break was taken.)

19 THE COURT: Curtis, we are not going to need that
20 phone anymore. All right. So, let's go on the record.
21 So the plan is, we are going to bring Ms. Couey out, put
22 her under oath and just ask her whether or not she intends
23 to testify in this case or take the Fifth. And one of her
24 attorney's has indicated to us is that she is going to
25 take the Fifth. And then we will bring her back over

1 tomorrow and put her back on the stand before the jury and
2 see if she takes the Fifth again. That is what we will do
3 today. Bring her on out.

4 Ms. Couey, come on around. I will need to swear you
5 in and ask you some questions. Come on around to the
6 witness stand.

7 Jamie Couey, being
8 first duly sworn, testified as follows:

9 MS. COUEY: I plead the Fifth.

10 THE COURT: We will get into that in a minute but
11 whatever you tell me on the witness stand will be
12 truthful. That is what we are asking. Come around,
13 please, ma'am.

14 Ms. Couey, you are Jamie Couey and you happen to be
15 the sister of Phillip Derrick, is that correct?

16 MS. COUEY: Yes, sir.

17 THE COURT: Let me explain to you why I issued an
18 order to have you picked up. The information provided to
19 me is that you had indicated to Mr. Yarborough's office as
20 well as the Clerk of Court's office that you did not
21 intend to honor the subpoena and appear in court. And
22 that is why I had you placed into custody. Do you
23 understand, ma'am?

24 MS. COUEY: Yes, sir. Mr. Yarborough said he did not
25 need me.

1 THE COURT: Well, he did not say that. So we don't
2 need to go into that. Now, for your protection I had the
3 Public Defender's office, Ms. Finkenstadt and Mr.
4 Colongeli talk with you and give you whatever advice that
5 you needed in this matter. I did that for your
6 protection. I believe you have told me that it is your
7 plan or intent is to take the Fifth and not to testify in
8 this case. Is that correct?

9 MS. COUEY: Yes, sir.

10 THE COURT: So what, here is the plan. I am going to
11 keep you in custody overnight. And then have you brought
12 back over in the morning. And then when we bring the jury
13 out you will be called to the witness stand, you will be
14 sworn in again. And then either I or the lawyers, and I
15 will make that decision, will ask you probably, probably
16 get Mr. Yarborough to start off asking you questions. And
17 then if you elect at that time to take the Fifth then you
18 will so indicate. Okay. If you change your mind and
19 elect to testify then you have that right too. Do you
20 understand all of your rights after having talked to Ms.
21 Finkenstadt and Mr. Colongeli, correct?

22 MS. COUEY: Yes, sir.

23 THE COURT: All right. Well, thank you very much
24 and, again, we will hold you overnight and then we will go
25 from there. So, Sheriff, if one of y'all will take her

1 back to the Detention Center. And Mr. Colongeli will be
2 here in the morning, if you need to talk to him and get
3 any advice or have any questions asked. Okay.

4 MS. COUEY: Yes, sir.

5 THE COURT: Thank you, ma'am, you can step down.

6 (Whereupon, Ms. Couey is escorted out of the
7 courtroom.)

8 THE COURT: Anything else for today that we need to
9 put on the record. From the State?

10 MR. BROWN: Not from the State. We will be doing
11 some research tonight.

12 THE COURT: Okay. And from the Defense?

13 MR. YARBOROUGH: The only thing that I would do at
14 this time, Your Honor, is move for a directed verdict.

15 THE COURT: Okay.

16 MR. YARBOROUGH: I think that, clearly in the best
17 case the State has proved, as the chemist said, there
18 would be a possibility that it could have been less than
19 28 grams. Also the, it appears that the other drugs were
20 found in the camper. And taking the State at their best
21 evidence, we would argue that 24 grams came out of Mr.
22 Derrick's pocket. And I would submit that there is no
23 other constructive possession in that case that would give
24 you any intent that he had more than that. So we would
25 move to dismiss the indictment at this point, being less

1 than 28 grams. I would also say this. There is a charge
2 of alprazolam. There has been no evidence that Mr.
3 Derrick had anything to do with any alprazolam. It was
4 just brought up, said it was there and there has not been
5 anything that links him to any of those drugs.

6 THE COURT: Thank you. Solicitor.

7 MR. BROWN: Judge, I think the chemist stated that
8 even if you took out the plus or minus potential of .01
9 that it still puts everything over 28 grams. So I think
10 she said that clearly, you add them together it is over 28
11 grams. Now, that one big bag that was out of his pocket
12 was 24.24, 24.64, somewhere around there, grams. And to
13 be clear on that, it is 24.64 was the amount in his
14 pocket. But also when Ms. Hoffman questioned, there were
15 two other bags that were crystal substance just like the
16 bag in his pocket, they are the same make, the same
17 appearance; that it would tie those together. So when you
18 add all of those, that methamphetamine, those four bags;
19 that is over 28 grams. So in the light most favorable to
20 the State, I believe we have met our burden in reaching
21 and overcoming a directed verdict. Also for the 12
22 alprazolam pills, again, it has been testified to that the
23 CI buy, that both Mr. Derrick and Ms. Couey were in the
24 camper at the time of that buy on Mr. Derrick's property;
25 that again during the execution of the search warrant,

1 again it was Mr. Derrick and Ms. Couey in the camper. The
2 drugs were right there in the middle of them and was
3 actually testified to that he had a baggie in his hand and
4 dropped it when law enforcement came in. It is within
5 arms reach of everybody. It is actually in his hand when
6 he drops it and then when they get him outside he has a
7 bigger bag in his pocket. Again, in the light most
8 favorable to the State, with alprazolam and plus the other
9 meth in the camper, that we have reached, clearly overcome
10 that.

11 THE COURT: Of course, what I am concerned with is
12 not the weight of the evidence; use the term, weight, in
13 another fashion, not the weight of the drugs. What I am
14 concerned with is the existence of any evidence. And I
15 think there certainly is enough direct evidence and
16 substantial circumstantial evidence to justify sending the
17 case to the jury. Mr. Yarborough, your motion for
18 directed verdict is respectfully denied.

19 MR. YARBOROUGH: Thank you, Your Honor.

20 THE COURT: All right. Let me see if I can get a
21 charge in y'all's hands in just a little bit. If I can't
22 I will send y'all on. So just hang around with me for a
23 little bit. We will not need anything else on the record
24 today.

25 (Whereupon, the trial will resume the next morning at

1 10:30 a.m.)

2 August 3, 2022.

3 THE COURT: We are back on the record and here is the
4 plan that we are going to follow. Outside of the presence
5 of the jury we are going to bring Jamie Couey in. At
6 least the last information we got from Mr. Colongeli, her
7 attorney, she still intends to plead the Fifth. So we are
8 going to swear her and put her in the witness box. Since
9 we are in your case-in-chief, Mr. Yarborough, ask her her
10 name and then ask her if she gave a statement on such and
11 such date. And then presumably she is going to take the
12 Fifth at that time. And then we will excuse her. And
13 then you will be given the opportunity to call Chief Louis
14 to the stand as it relates to the statement that he took
15 from her. And then whenever you finish your case-in-chief
16 then the State will be given the opportunity in reply
17 testimony to put up a witness or witnesses related to some
18 jail phone calls that Ms. Couey apparently made yesterday
19 or last night. So that is kind of the plan. So
20 everything in the presence of the jury with the exception
21 of Ms. Couey presumably taking the Fifth. Let me just go
22 one step further. I know that the State worked hard last
23 night in doing some research on how we handle this
24 statement with respect to Ms. Couey. And two cases, State
25 versus Wanamaker, 346 SC 459; and State versus Kinlouch,

1 that is K-I-N-L-O-U-C-H, 338 SC whatever the page is. But
2 it appears that our situation is a little different. The
3 primary focus in those two cases was whether or not a
4 witness actually made the subject statement. And even in
5 Kinlouch there was an issue whether or not the witness was
6 unavailable. I think that we all agree that a statement
7 was made. Now, certainly whether or not the statement was
8 provable or not, that is a different question. But the
9 statement was made by Ms. Couey and I don't think that is
10 in dispute. And if she takes the Fifth then she is
11 unavailable. So I distinguish our situation from two
12 cases which require the Court to make an in-camera, a
13 finding as, concerning the admissibility of the statement.
14 So I am going to determine that we are going to handle it
15 in a little bit different fashion. So let's get Ms. Couey
16 in, have her sworn in, Madam Clerk; and then, Mr.
17 Yarborough, just ask her name and ask her if she made a
18 statement.

19 MR. BROWN: And, Judge, I am just going to add. I
20 don't know if you said the other case names on the
21 following how we are handling Ms. Couey. State v.
22 Graddick and State v. Hughes, about being in-camera.

23 THE COURT: State versus Graddick and I think maybe
24 State v. Hughes. Graddick is 345 SC 383, that is
25 G-R-A-D-D-I-C-K. And State versus Hughes, 328 SC 146.

1 Both of those seem to pretty much tell us that, if you
2 know in advance that the witness is going to take the
3 Fifth, then do it outside the presence of the jury.

4 (Whereupon, Ms. Jamie Couey entered the courtroom.)

5 Jamie Couey, being
6 first duly sworn, testified as follows:

7 DIRECT EXAMINATION

8 By Mr. Yarborough:

9 Q Is your name Jamie Couey?

10 A Yes, sir.

11 Q Ms. Couey, were you interviewed on April the 10th,
12 2018 about the drugs that were found in the camper at 110
13 Barkwood Lane?

14 A I plead the Fifth.

15 Q Was that your camper?

16 THE COURT: Just ask if she made the statement and
17 then we will end it at that.

18 Q Did you make the statement to Chief Louis?

19 A I plead the Fifth.

20 THE COURT: Thank you, Ma'am. You can step down.

21 (Whereupon, Ms. Jamie Couey is escorted out of the
22 courtroom.)

23 THE COURT: Before we bring the jury out, I think
24 just a little housekeeping matter. And certainly Mr.
25 Colongeli is in the courtroom. I think any further

1 confinement of Ms. Couey needs to be under the bench
2 warrant or warrants that were issued as opposed to my
3 order of yesterday. So however that needs to be handled.
4 I don't know exactly if you serve the bench warrant when
5 they are picked up.

6 MR. BROWN: Judge, the Sheriffs Office should have
7 bench warrants in their custody over there to be able to
8 serve. After she was picked up yesterday the State did,
9 the cases that were true billed, we did open those back up
10 because they were all failed to appear. We restored those
11 and so she does have those charges pending against her.
12 And just for the record, there has been no offers made to
13 her one way or the other from the State. So we will have
14 to deal with that at a later time.

15 THE COURT: Okay. So what I want is for the Sheriffs
16 Office to affect service process of the bench warrant or
17 warrants, I don't know if it is more than one, on Ms.
18 Couey for continued confinement until things can go
19 further. And I also want the record to reflect and I
20 appreciate Mr. Colongeli's efforts that he, yesterday
21 immediately when I issued the order to have her taken into
22 custody, Mr. Colongeli and Ms. Finkenstadt both
23 immediately became involved in this case. Insofar as
24 talking Ms. Couey, related to her testimony or invoking
25 her Fifth Amendment rights, and they talked with her

1 extensively yesterday as well as this morning. Mr.
2 Colongeli and providing her with the necessary advise and
3 I do appreciate your efforts on that. I just want to be
4 clear that further confinement, Ms. Couey is going to be
5 under the bench warrant, not under my previous order.

6 Okay. Are we good on that?

7 OFFICER: Yes sir, Judge. If you don't mind, just
8 get the Clerk to do a release on the order and then we
9 will serve a bench warrant. If you don't mind.

10 THE COURT: If you can do that, Madam Clerk?

11 CLERK OF COURT: Yes, sir.

12 THE COURT: Okay. Do we want to take like a two
13 minute break to give Mr. Yarborough an opportunity as well
14 to sound Mr. Derrick's name. You want to do that.

15 MR. BROWN: Judge, just one thing I want to make sure
16 where the jury is being held right now, that they don't
17 hear the sounding of Mr. Derrick's name.

18 THE COURT: Before we do anything let's go ahead and
19 get the jury through that door into the jury room before
20 we do anything else.

21 (Whereupon, the jury came into the jury room at
22 approximately 10:55 a.m.)

23 THE COURT: Mr. Yarborough, if you want to go on out
24 and see if you can find Mr. Derrick and just get one of
25 the Bailiff's to go out and sound outside, sound Mr.

1 Derrick's name, Phillip Derrick.

2 (Whereupon, Mr. Phillip Derrick, the Defendant's name
3 was sounded outside of the courtroom.)

4 THE COURT: Let's go back on the record. It is my
5 understanding that the Defendant still cannot be located,
6 he is not present in the courtroom; that his name was
7 sounded in the hallways of the Court House and no
8 response. Mr. Yarborough?

9 MR. YARBOROUGH: I don't have anything further. He
10 left here late yesterday afternoon. We talked and said he
11 was going to be here, he was going to meet me here early.
12 I haven't seen him. I also have checked my office and no
13 communication.

14 THE COURT: Okay. I will instruct the jury when they
15 come out, the fact that Mr. Derrick is not present cannot
16 be held against him and explain to them why that is; is
17 because he has no burden of proof in this case. So I will
18 instruct them on that.

19 MR. YARBOROUGH: Okay.

20 THE COURT: All right. Anything further from the
21 State before we get started?

22 MR. BROWN: Not from the State, Judge.

23 THE COURT: Now, is it the State's plan to wait after
24 lunch concerning any evidence of jail calls or do you
25 think we can get it in before we break?

1 MR. BROWN: It might be easier to do it after lunch
2 to make sure --

3 THE COURT: I just didn't know time wise.

4 MR. BROWN: Because I think Bill wants to hear it and
5 then we also need to redact and make sure something
6 inappropriate or potentially prejudicial does not come in.

7 THE COURT: Let's bring the jury out, please.

8 (Whereupon, the jury came into open court at
9 approximately 11:06 a.m.)

10 THE COURT: Let the record reflect the jury is back
11 in. Good morning, ladies and gentlemen. I hope y'all are
12 doing well. Thank you for your patience, we have had some
13 issues, we have been working while you were over here and
14 then back in your jury room. One thing I want to mention
15 to you, you will see that Mr. Derrick is not present
16 today. The fact that he is not present today cannot be
17 held against him in any manner whatsoever nor can it be
18 used against him concerning any guilt on his past in this
19 case. And the reason why that it is, ladies and
20 gentlemen, is that Mr. Derrick continues to enjoy the
21 presumption of innocence. And he continues to enjoy the
22 fact that it is up to the State to prove guilt beyond a
23 reasonable doubt. Mr. Derrick and his attorney, Mr.
24 Yarborough, have no burden of proof whatsoever. That is
25 why I am telling you, the fact that he is not here today

1 cannot be held or used against him in any manner
2 whatsoever. Okay. Mr. Yarborough, are you ready in your
3 case?

4 MR. YARBOROUGH: I am, Your Honor.

5 THE COURT: Okay.

6 MR. YARBOROUGH: Your Honor, I would call Chief
7 Louis.

8 THE COURT: Need to have you sworn in again since
9 that was yesterday when you testified.

10 Bryan Louis, being
11 first duly sworn, testified as follows:

12 DIRECT EXAMINATION

13 By Mr. Yarborough:

14 Q Chief, I think you are still under oath from
15 yesterday.

16 THE COURT: No, he got, he is re-sworn because that
17 was yesterday.

18 MR. YARBOROUGH: Okay.

19 Q You were the primary investigator in this case?

20 A Yes, sir.

21 Q And based on your investigation, after the search on
22 April the 9th of 2018, did you interview Jamie Couey?

23 A I did.

24 Q And do you have that statement with you today?

25 A Yes, sir.

1 Q Do you have the original.

2 MR. YARBOROUGH: Your Honor, I would have that marked
3 as Defense Exhibit 1.

4 THE COURT: Let's mark it as ID first and then let's
5 --

6 MR. YARBOROUGH: It is marked as State ID number 4.

7 THE COURT: Oh, it is?

8 MR. YARBOROUGH: Yes, sir.

9 Q Can I show you this?

10 A Yes, sir.

11 Q Do you recognize that?

12 A Yes sir, I do.

13 Q Did you take that statement?

14 A I did, I actually wrote that statement.

15 Q Okay. And did you, that statement was taken on
16 4/10/18?

17 A That's correct.

18 Q And have you been trained in law enforcement
19 techniques in taking statements?

20 A I have.

21 Q And there is a standard protocol, right?

22 A There is.

23 Q And you wrote down what time that statement was
24 taken?

25 A Yes, sir.

1 Q And you wrote down that it was taken, I am guessing,
2 GCDC is the Greenwood County Detention Center?

3 A That's correct.

4 Q And that is on there. And it says, you were, I,
5 Jamie Couey. You wrote that, right? You wrote everything
6 because she had a bad hand?

7 A Yes sir, that is correct.

8 Q And she said she was how old?

9 A 37 years of age.

10 Q And did she tell you what her date of birth was?

11 A 6/10/80.

12 Q Did she seem to understand everything that was going
13 on?

14 A She did.

15 Q And she told you that she lived at 110 and I can't
16 read, it looks like --

17 A Barkwood.

18 Q Right. And she told you she could read and write?

19 A Yes.

20 Q And did you read her her Miranda rights?

21 A Yes sir, I did.

22 Q Can you tell me the Miranda rights that you read to
23 her?

24 A You want me to read them?

25 Q Please.

1 A Yes, sir. I have the right to remain silent.
2 Anything I say can and will be used against me in a court
3 of law. I have the right to talk to a lawyer and have him
4 present with me while I am being questioned. If I cannot
5 afford a lawyer one will be appointed to represent me
6 before any questioning, if I wish. I can decide at any
7 time to exercise these rights and not answer any questions
8 nor make any statements. I understand my rights, having
9 my rights in mind I am waiving my rights in giving this
10 statement.

11 Q Okay. And did she seem to understand what was going
12 on?

13 A Yes, sir.

14 Q And I know at the bottom it shows that you signed it,
15 but did she also sign it?

16 A She made her mark with an X, yes sir.

17 Q She made a mark because her hand was broken, so she
18 made a mark saying this is my statement?

19 A Yes, sir.

20 Q Okay. Can you, at this time --

21 MR. YARBOROUGH: At this time we would move the
22 statement into evidence. And I would ask him to publish
23 the statement, Your Honor.

24 THE COURT: Okay. And what says the State, based
25 upon whatever has been placed on the record.

1 MR. BROWN: Yes, sir.

2 THE COURT: Admitted into evidence as, well, it was
3 previously marked as State's 4 but I think we need to put
4 it over as Defendant's --

5 COURT REPORTER: It will be Defendant's number 10.

6 THE COURT: 10, okay.

7 (Whereupon, Defendant's Exhibit 10 was admitted into
8 evidence.)

9 Q Would you publish the statement at this time?

10 A Yes. It reads, all the drugs and narcotics located
11 inside the camper at 110 Barkwood Lane belong to me and
12 not my brother, Phillip Derrick. I accept full
13 responsibility for all items found by DEU on 4/9/18. I am
14 unable to sign my name due to my hand injury but will sign
15 with an X.

16 Q Did she make that statement freely and voluntary to
17 you?

18 A Yes, she did.

19 Q Okay. And you also took a statement from her brother
20 on the same day?

21 A Yes, sir.

22 Q And what is his name?

23 A Phillip Derrick.

24 Q And in that statement, what did he tell you about,
25 you want me to show it to you?

1 A If you don't mind.

2 Q Yes.

3 A You want me to read it?

4 Q Just the statement part is fine.

5 A Okay. The dope found in camper belonged to Jamie
6 Couey.

7 Q And did he freely and voluntarily make that statement
8 to you?

9 A Yes, he did.

10 Q And you had read him his rights?

11 A Yes, sir.

12 Q And at that point, were they both in custody?

13 A They were.

14 Q And she had been housed in the women's section of the
15 Greenwood County Detention Center?

16 A Yes, sir.

17 Q And he had been, you interviewed him at your office
18 or in the men's --

19 A It would have been in an office up front at the jail.

20 Q And let me ask you if you recognize these narcotics
21 which I believe it is State's exhibit number 1 and they
22 have been moved into evidence. It looks like the package
23 is open. Can you tell me what is in there?

24 A It looks like methamphetamine.

25 Q And that is the methamphetamine that Jamie Couey was

1 referring to?

2 A She is referring to the meth that was found in the
3 camper. So these bags were the ones that were found
4 inside the camper.

5 Q But in her statement she says, she says what about
6 all the drugs found?

7 A She said all the drugs and narcotics located inside
8 the camper.

9 Q And then what does the next line say?

10 A At 110 Barkwood Lane belong to me and not my brother,
11 Phillip Derrick.

12 Q And is there another part of that statement?

13 A She said I accept full responsibility for all the
14 drugs found by DEU on 4/9 of '18.

15 Q So she accepted full responsibility for all drugs
16 found by DEU on that date?

17 A That is what her statements says, yes.

18 Q And you took that statement from her freely and
19 voluntarily?

20 A Yes, sir.

21 Q Now, I want to show you what has been previously
22 marked as State's exhibit in evidence number 25. Do you
23 recognize that?

24 A I do.

25 Q Is a Deed of property to Phillip Derrick for the

1 property located there?

2 A It is.

3 Q And there was a camper that was found behind there
4 which is where you arrested and the struggle ensued with
5 Mr. Derrick. Is that correct?

6 A That's correct.

7 Q And that camper is approximately one-hundred yards
8 behind that residence?

9 A Yes, sir.

10 Q And at the time that you went to that residence it
11 appeared that Ms. Couey was the person living there,
12 correct?

13 A She had items in there, yes sir.

14 Q Well, you remember watching the video that was played
15 in here yesterday?

16 A Yes, sir.

17 Q And in that video you see a woman's makeup counter
18 and mirror and the things that women use to put on their
19 face?

20 A Yes, sir.

21 Q And you also saw a bunch of knickknacks and stuff in
22 there that would be a woman's knickknacks?

23 A Yes, sir.

24 Q So based on what you saw it appeared that she lived
25 there, correct?

1 A Living wise, I don't know if she was staying there at
2 the time.

3 Q And there was only one bed there, right?

4 A Yes, sir.

5 Q And previously you had worked with a confidential
6 informant?

7 A I have.

8 Q And you had made multiple buys from Ms. Couey at that
9 residence?

10 A Once again, I just know definitely of the one buy.

11 Q So you didn't make two or you just don't remember?

12 A I just don't remember.

13 Q Okay. Did you also, did you get a search warrant?

14 A I did.

15 Q And that search warrant was for the property located
16 at 110 Barkwood Lane. Now, I can read it, okay, Barkwood
17 Lane. Is that right?

18 A Yes.

19 Q And you searched the main house at Barkwood Lane,
20 right?

21 A Me personally?

22 Q Well, your officers that you had --

23 A The unit did, yes sir.

24 Q You were the coordinator?

25 A Yes, sir.

1 Q And that place was searched, correct?

2 A It was.

3 Q And no drugs were found in the main house and that
4 was clearly where Mr. Derrick was living. Is that not
5 correct?

6 A He may have been living in that building, yes, the
7 main building.

8 Q Okay. Now, you did an affidavit for a search
9 warrant?

10 A Yes, sir.

11 Q And that affidavit was done on April the 6th of 2018?

12 A That's correct.

13 Q And in that affidavit you swore to tell the truth,
14 right?

15 A Yes, sir.

16 Q And in that affidavit, can I get you to read, where
17 it starts within the past 72 hours?

18 A Within the past 72 hours I documented reliable
19 confidential informant working with the Greenwood County
20 DEU, purchased a quantity of crystal like substance which
21 tested positive for meth from Jamie Couey in a camper
22 behind the residence located at 110 Barkwood Lane in the
23 County of Greenwood, South Carolina. The informant was
24 equipped with audio/video recording capabilities to make
25 contact with Couey who exchanged a clear plastic bag

1 containing a crystal like substance, with recorded U.S.
2 currency. The informant then left the residence and made
3 contact with agents and relinquished the drugs. Couey has
4 been arrested at the residence in the past and drug
5 paraphernalia has been located inside the residence.

6 Q Does that refresh your recollection about arresting
7 her in the past, about --

8 A Personally I don't know if I arrested Ms. Couey in
9 the past.

10 Q But you were aware of information that Ms. Couey --

11 A That's right.

12 Q And you put that in your affidavit and that was the
13 truth, right?

14 A Yes, sir.

15 Q Okay. Did you also, did you do an affidavit for an
16 arrest warrant for Ms. Couey on 4/9/2018?

17 A I have to see it, sir.

18 Q I will show you this.

19 A Yes, sir.

20 Q Do you recognize that?

21 A I do.

22 Q Is this yours?

23 A Yes, it is my signature.

24 Q You did it?

25 A Yes, sir.

1 MR. YARBOROUGH: I would move this in.

2 THE COURT: Show it to Solicitor Brown and Hoffman.

3 MR. YARBOROUGH: Your Honor, I am not going to move
4 it in, I am just going to get him to read his affidavit in
5 the record.

6 MR. BROWN: I don't really have an objection for it
7 coming in.

8 THE COURT: If you are going to publish it it would
9 have to be into evidence.

10 MR. BROWN: I think he is personally identifying
11 numbers just for, like a social security number needs to
12 be --

13 THE COURT: Well, go ahead and, go ahead and redact.
14 Just get with Solicitor Brown and Hoffman and go ahead and
15 mark through the personal information.

16 MR. BROWN: Judge, just for the record, all we did
17 was strike out the social security number.

18 THE COURT: Sir?

19 MR. BROWN: I just scratched out the social security
20 number.

21 THE COURT: So without objection?

22 MR. BROWN: Without objection.

23 THE COURT: So that would be number 11 for the
24 Defense.

25 MR. YARBOROUGH: And I am going to go ahead and move

1 number 12 in as well. He doesn't have an objection to
2 that and I will publish it when he gets a chance.

3 (Whereupon, Defendant's Exhibits 11 and 12 were
4 admitted into evidence.)

5 Q I am going to hand you into evidence Defense exhibit
6 11 and Defense exhibit 12. And I would ask you to look at
7 Defense exhibit 11 and read your affidavit to the jury?

8 A On April 9, 2018, Jamie Couey was in possession of
9 three clear plastic bags which tested positive for meth.
10 Had weights of 2.43 grams; 1.75 grams; and 26 and .3
11 grams.

12 Q So you charged her with those drugs?

13 A Yes, sir.

14 Q And then, look at the other one.

15 A Exhibit 12?

16 Q Yes.

17 A The same thing?

18 Q Yes, the same thing.

19 A On April 9th of 2018 Phillip Derrick was in
20 possession of three plastic bags which testified positive
21 for meth. Had weights of 2.43 grams; 1.75 grams; and 26.3
22 grams.

23 Q Okay. And those are your affidavits, you swore to
24 them as being truthful at that time?

25 A Yes sir, I do.

1 Q So you charged both parties with both drugs?

2 A Yes sir, I did.

3 Q And but both parties had given you statements saying
4 that the drugs were her's?

5 A Correct.

6 Q Let me also ask you this. Will you look at the bag
7 of evidence that you have there. Can you tell me, what
8 drugs are in that bag. What specific drugs are in that
9 bag?

10 A It is methamphetamine.

11 Q It is methamphetamine. But can you give me the
12 weights of those drugs?

13 A It says on the bag here, 1.75; 2.43; and 26.3.

14 Q You just see three?

15 A I can't read the other one, they are stacked on top
16 of each other, inside the bag, inside this bag.

17 Q My point, you have three bags in there, right?

18 A Correct.

19 Q And --

20 THE COURT: I think he said four, he just can't read
21 one.

22 A I can't --

23 THE COURT: He sees a fourth one but he just can't
24 read the weight. I think that is what his testimony was.

25 A It says .30, after which I can't make out.

1 Q It has got .3 after you can't make out?

2 A I can't see on top of what it is.

3 Q Okay. But it is not listed in your affidavit, right?

4 A The what?

5 Q That one bag you can't read is not listed in your
6 affidavit?

7 A No, it is not.

8 Q And when the lab results came back to you from SLED
9 they were smaller than what is listed in your affidavit,
10 right?

11 A Are you talking about the weight, sir?

12 Q Yes.

13 A Yes, sir.

14 Q And, the 12 pills that you have listed, the
15 alprazolam, that is Xanax, right?

16 A Basically, yes.

17 Q And that Xanax was, was it in Ms. Couey's belongings?

18 A I believe it was just on the counter in the camper.

19 Q Okay. And they were like 10 separate pills?

20 A I think 12.

21 Q 12. Did you find a prescription in there for her?

22 A I don't believe we did.

23 THE COURT: Mr. Yarborough, can I interrupt you for
24 just a second. I think I have got an emergency phone call
25 that I need to take. I apologize. Everybody just be at

1 ease for just a second. Okay.

2 MR. YARBOROUGH: Sure.

3 (Whereupon, a short break was taken.)

4 (Whereupon, the jury was excused from open court for
5 a break.)

6 MR. BROWN: We are whiting out on the search warrant
7 or on the arrest warrants for Phillip Franklin Derrick,
8 Defendant's exhibit number 12. We are marking out the
9 offense where it describes this is his second offense for
10 trafficking. So we are taking out. So before it gets
11 back to the jury and causes problems.

12 THE COURT: I am sorry for the interruption in the
13 middle of your examination.

14 MR. YARBOROUGH: Everything okay?

15 THE COURT: We are good.

16 MR. BROWN: Judge, one thing, while you were in the
17 back, we did notice that the two arrest warrants that were
18 put in by the Defense; the arrest warrant for Phillip
19 Derrick, it did have second offense on there. So we have
20 whited that out to make sure there is no effect on a jury
21 later on. So that has been corrected. We did actually
22 put that on the record, like with the Court Reporter while
23 you were in the back. I just wanted to put that on there.

24 THE COURT: Let's bring the jury in.

25 (Whereupon, the jury came into open court at

1 approximately 11:48 p.m.)

2 THE COURT: Okay. We will continue, Mr. Yarborough.

3 MR. YARBOROUGH: Your Honor, I had asked my last
4 question when you had to go back.

5 THE COURT: Any cross?

6 MR. BROWN: Yes sir, Judge.

7 CROSS-EXAMINATION

8 By Mr. Brown:

9 Q Good morning, Chief Louis.

10 A Good morning.

11 Q Chief Louis, Mr. Yarborough was asking you about the
12 interview with Ms. Couey.

13 A That's correct.

14 Q Do you still have that copy in front of you?

15 A I do.

16 Q When you go through that, you had actually
17 interviewed Phillip Derrick as well that day. Is that
18 right?

19 A That's correct.

20 Q And Phillip Derrick's statement said what?

21 A Mr. Derrick said the dope found in camper belonged to
22 Jamie Couey.

23 Q And did he mention what was found in his pocket?

24 A He did not.

25 Q Did he attribute that to Ms. Couey?

1 A He did not.

2 Q Then you read Ms. Couey's statement and it said, all
3 drugs and narcotics located inside the camper at 110
4 Barkwood Lane belonged to me and not my brother, Phillip
5 Derrick?

6 A That's correct.

7 Q Did she say anything was found in his pants pocket?

8 A Did not.

9 Q And then, it does have another sentence. I accept
10 full responsibility for all items found by DEU on
11 4/9/2018. Now, after Mr. Derrick and Ms. Couey were
12 placed in handcuffs, the DEU took them outside the camper.
13 Is that correct?

14 A That's correct.

15 Q And they were separated?

16 A They were.

17 Q And at the end of watching that video that Ms.
18 Hoffman put in yesterday, at the end of the entire search,
19 after Jamie Lovett had done a search inside the mobile
20 home and then you, Wes McClinton and Jamie Lovett searched
21 the camper; at the end of that which is about an hour and
22 20 minutes, that is when you searched Phillip Derrick or
23 y'all searched Phillip Derrick?

24 A He was searched there, yes.

25 Q Where was Jamie Couey when you searched Phillip

1 Derrick?

2 A I believe she was already gone because she wasn't
3 present in the video with the officer standing around Mr.
4 Derrick.

5 Q She had already been taken to the hospital, right?

6 A Yes, sir.

7 Q For complaints of her hand?

8 A Hand, I believe, and a foot injury.

9 Q And the hand was not injured during this execution of
10 the search warrant?

11 A No, sir.

12 Q But her foot, y'all were stepping on her foot as
13 wrestling with her brother?

14 A Yes, sir.

15 Q Okay. But looking at Philip Derrick's statement, and
16 he specifically says drugs in the camper?

17 A He did.

18 Q And nothing about his pocket?

19 A Nothing about his pocket.

20 Q Okay. And when you went in the camper initially,
21 executing the search warrant, what did you say he had in
22 his hand?

23 A It looked to be a clear plastic bag containing
24 methamphetamine.

25 Q And he did what with it?

1 A He tossed it behind him.

2 Q Okay. Now, 110 Barkwood Lane, on Phillip Derricks
3 statement, what is his address?

4 A It says 110 Barkwood Lane.

5 Q On Jamie Couey's statement, where does she live?

6 A 110 Barkwood Lane.

7 Q So they both live there?

8 A Correct.

9 Q Now, in this instance, during the CI buy, both Jamie
10 Couey and Philip Derrick were in the camper, correct?

11 A Correct.

12 Q And the execution of the search warrant, both, Jamie
13 Couey and Phillip Derrick were in the camper?

14 A That's correct.

15 Q On Phillip Derrick's property?

16 A Correct.

17 Q So both times Phillip Derrick was there?

18 A Yes, sir.

19 Q And then electricity coming from the mobile home was
20 being run out to the camper?

21 A Yes, it was.

22 Q And in the mobile home, is actually Phillip Derrick
23 and Jamie Couey's mother, right?

24 A Right.

25 Q And then Jamie Couey's son?

1 A I don't know --

2 Q The whole family was living there?

3 A Basically family.

4 Q And in this particular case, both Jamie Couey and
5 Phillip Derrick were charged with trafficking meth?

6 A That is correct, they were.

7 Q And the possession of alprazolam?

8 A Yes.

9 Q And the alprazolam was right there in the middle, out
10 there in the open in the camper?

11 A It was.

12 Q And both of them were right there?

13 A They were.

14 Q Mr. Yarborough was asking you about the weights of
15 the drugs and the search warrant. In State's 9, 7, 13 and
16 15; these four bags of methamphetamine?

17 A That's correct.

18 Q And that would be the four bags that were taken, the
19 three bags taken in the camper and then the one larger bag
20 out of Phillip Derrick's pocket?

21 A That's correct.

22 Q And, again, when doing an initial weight or testing
23 of those drugs, the common practice by law enforcement, do
24 you do a presumptive test to see what you are dealing
25 with?

1 A We do. We test a small portion of the drug and
2 placed it into evidence, chemical test kit.

3 Q And those lit up as methamphetamine?

4 A They did.

5 Q But the purposes of sending to SLED is to get a more
6 exact weight?

7 A Yes sir, that is correct.

8 Q And there they use, when they put it on the scale
9 they take the actual weight of the baggy out of it so the
10 bag is not being weighed in it?

11 A That's correct, they do.

12 Q So normally when you, the Sheriffs Office or the
13 Chief of Ware Shoals, when you initially test something, a
14 drug, it is going to be a little more than when SLED gets
15 it back?

16 A The bag weight would be included.

17 Q But in this instance, the weight of the
18 methamphetamine is over 28 grams either way you weigh it?

19 A That's correct.

20 Q And in this instance, with the trafficking, both
21 Jamie Couey and Phillip Derrick were charged with these
22 charges?

23 A Yes, they were.

24 Q Is it uncommon for two or more people to be in
25 business together?

1 A It is not.

2 Q To deal drugs?

3 A It is not.

4 Q Traffic drugs?

5 A Right.

6 Q One to supply another with a bigger bag?

7 A That's correct.

8 Q And then one can break it down for individualized
9 purchases?

10 A Yes, sir.

11 Q In any way you shake it, they can both be in it
12 together?

13 A They can.

14 Q And, again, Phillip Derrick was there at the buy and
15 the search warrant?

16 A That's correct.

17 Q Once you pulled, law enforcement pulled that big
18 baggy out of Phillip Derrick's pocket, did he yell at that
19 point that those drugs in his pocket were Jamie Couey's?

20 A He did not.

21 Q All he did was bow his head down, right?

22 A Correct.

23 Q No further questions.

24 THE COURT: Anything in redirect?

25 REDIRECT EXAMINATION

1 By Mr. Yarborough:

2 Q In the statement Ms. Couey gave, she said she
3 accepted full responsibility for all items found, by DEU,
4 on 4/9/18, correct?

5 A Correct, sir.

6 Q I don't have any further questions.

7 THE COURT: You can step down. Thank you, sir.

8 Ladies and gentlemen, we are going to go ahead and break
9 for lunch. It is right at the noon hour and I want you
10 back here at 1:30 and we will proceed forward. Again,
11 remember all of my instructions. If you go to a local
12 restaurant be sure and keep your juror badge visible.
13 Have a good lunch, see you back at 1:30.

14 (Whereupon, the jury was excused for a lunch break.)

15 THE COURT: Y'all have a good lunch and see you back
16 at 1:30. One thing real quick. Assuming that you don't
17 find Mr. Derrick, we are going to add to the charge
18 election of the Defendant not to testify.

19 MR. YARBOROUGH: Okay.

20 THE COURT: And I will show it to you, it is the
21 standard language.

22 MR. YARBOROUGH: I am aware, Your Honor.

23 (Whereupon, a lunch break was taken.)

24 THE COURT: This is in the matter of the State versus
25 Jamie Couey. Ms. Couey is currently being in custody, not

1 on my order of yesterday but on a bench warrant or bench
2 warrants, I am not sure if there are multiple bench
3 warrants that were previously issued because of Ms.
4 Couey's, it was failure to appeal. Is that correct,
5 Solicitor Brown?

6 MR. BROWN: That's correct.

7 THE COURT: All right. Now, Mr. Colongeli, this is
8 your motion to lift the bench warrants. Is that correct.

9 MR. COLONGELI: That's correct, Your Honor.

10 THE COURT: I will be glad to hear from you and then
11 I will hear from the State.

12 MR. COLONGELI: Thank you, Your Honor, may it please
13 the Court. As you have stated, Your Honor, Ms. Couey was
14 brought here on a separate issue as far as the trial going
15 on this week at which point we discovered, obviously, the
16 bench warrant for a failure to appear had been issued back
17 in January 15th of 2019. And looking back on the notes,
18 this case was just administratively reopened yesterday.
19 Before that it was showing as closed. What had happened
20 is that back in 2018 one of the former Public Defender's
21 here had gotten the charges dismissed at the preliminary
22 hearing. And that was simply, I guess, because an officer
23 wasn't present. They were later directly indicted and the
24 notes indicate here that, what had happened was, Ms. Couey
25 was on probation on an unrelated matter. Her probation

1 officer indicated to her there may be an issue, the
2 charges were directly indicted, you need to contact your
3 attorney. She, in fact, did contact our office and, let's
4 see here, was hysterical in the message she left saying
5 that this is what I have heard, I have been told to call
6 you, can someone please let me know what is going on. I
7 thought the charges had been dismissed. For whatever
8 reason, and I guess, in looking back Ms. Couey probably
9 should have continued to call this office but no one ever
10 did get back to her. The bench warrant has been issued.
11 She basically has been in the same place ever since then
12 and obviously the case had been closed in our system. I
13 would respectfully ask, based on that, she has not been
14 anywhere since this happened, she was under the impression
15 that the charges had been dismissed. And based on that
16 and in fairness and equity, I would respectfully ask that
17 you lift the bench warrant. So now we can deal with this.
18 I have a feeling it is something that we can address in
19 the near future but I don't think it is fair in any
20 respect to have her arrested. And the other issue and I
21 don't have the statute number, I am sure we are all aware
22 of it as far as being arrested on the jail house steps.
23 She was brought here for failure to answer a subpoena. So
24 she was here for another matter and the bench warrants at
25 that point, even though they had already been issued, will

1 be served. I don't even think they are served at this
2 point. They haven't even been served at this point. So
3 based on that, Your Honor, I think the law and fairness
4 indicates or dictates that she should be, shouldn't have
5 to have this bench warrant issued.

6 THE COURT: The fact that she was directly indicted,
7 I assume that there was no bond set. Is that correct,
8 Solicitor?

9 MR. BROWN: Judge, she was directly indicted on
10 9/28/2018 and looking at our notes, she was roll called in
11 the week of January 9th, 2019. That is when she still had
12 the Public Defender, Mr. Walt Whitmire. That was on the
13 case, at that time, she failed to show up. There were
14 three sets of charges then that for whatever reason, the
15 Magistrate, I think it was because the officer didn't show
16 up, dismissed them. Mr. Dowtin direct indicted them due
17 to not being a very good reason to dismiss it and notified
18 the Public Defender's office. Obviously she knew what the
19 charges were about based on what was said just now about
20 being on probation and told that she may have some issues
21 with these new charges. And in four years, hasn't been
22 around. And, Judge, just based on, based on this case,
23 how odd it has been with people coming and going or not
24 knowing where they are with this amount of charges, the
25 bench warrant was properly issued.

1 THE COURT: When the preliminary hearing was held,
2 was she already out on bond or was she in custody, charges
3 get dropped and by virtue of that she is released.

4 MR. COLONGELI: My understanding --

5 MS. COUEY: Apparently neither one of them know what
6 is going on.

7 THE COURT: Neither Solicitor Brown or Mr. Colongeli?

8 MS. COUEY: I am sorry. My charges --

9 THE COURT: Educate these two gentlemen.

10 MS. COUEY: My charges were dismissed at my
11 preliminary hearing. I was on probation still in
12 Greenwood County. I did not have bond, I was going for my
13 preliminary hearing to get bond set. My Public Defender
14 got it threw out. I was under the understanding
15 everything was over. I was on probation when this direct
16 indictment happened, I was still on probation. I
17 contacted the Public Defender's office like my probation
18 officer told me to. I did not get off of probation until
19 2019. I have not tried to run, hide or anything from
20 anyone. My Public Defender in Laurens County, last
21 summer, tried to figure this out and could not figure this
22 out. I have not tried to run from anybody.

23 THE COURT: Well, for me to consider --

24 MS. COUEY: I have not --

25 THE COURT: -- whether or not to lift the bench

1 warrant, I mean there has got to be a bond in place.

2 MS. COUEY: I have never been in court.

3 THE COURT: Okay. So I am going to have to convert
4 this hearing into a bond hearing because, again, if I let
5 you, if I lift the bench warrant without a bond that is
6 not good. So I have to have a bond in place.

7 MS. COUEY: Is there any way I can have PR bond. I
8 take care of my mother. My mother has a ventilator, she
9 has machines.

10 THE COURT: I am going to be quite honest with you.
11 I doubt I would consider a PR bond simply because you have
12 got a prior record. So here is what we need to do. I
13 will be glad to, later on this afternoon when the jury is
14 out, I will be glad to entertain a bond hearing and let me
15 get all the facts and information about you so then I can
16 make an intelligent decision concerning the bench warrant
17 and also the bond. But I don't want to consider the bench
18 warrant issue yet because, again, if I do lift the bench
19 warrant there has got to be a bond in place. I don't have
20 any choice on that.

21 MR. COLONGELI: I can --

22 THE COURT: So we are going to go ahead and take our
23 lunch break and then just whenever I have some time
24 because you still got that bond revocation matter with
25 Collie?

1 MR. COLONGELI: Yes, Your Honor.

2 THE COURT: So I have got some other matters I have
3 got to hear and we will just hear it when the jury is out.

4 MR. COLONGELI: Your Honor, very briefly. I don't
5 know what her issue is as far as my representation but I
6 think this would be the time for her to make the Court
7 aware, if she doesn't want my help.

8 MS. COUEY: I want your help, it is just y'all are
9 bouncing back and forth because I just got through this,
10 yesterday, no one is trying to listen to me. My brother
11 just tried to intimate me and make me take the rap for his
12 charge. He threw me under the bus.

13 THE COURT: Well, you have already taken the Fifth,
14 ma'am, you had an opportunity to testify and you exercised
15 your constitutional right that we all have to take the
16 Fifth Amendment.

17 MS. COUEY: I did that because that is what I --

18 THE COURT: We don't need to get into that anymore.
19 All right, we will just be back to that later on this
20 afternoon.

21 MS. COUEY: I want to go home, my mama is --

22 THE COURT: We will deal with it later.

23 MR. COLONGELI: Thank you, Judge.

24 THE COURT: Back at 1:30.

25 (Whereupon, a lunch break was taken.)

1 THE COURT: We are back on the record and, Solicitor,
2 you wanted to make one request to put something on the
3 record?

4 MR. BROWN: Yes sir, Judge. Judge, as of yesterday
5 the State rested our case. This morning the Defense had
6 the opportunity to present a case. And Ms. Jamie Couey is
7 a codefendant in the trafficking case with her brother,
8 Phillip Derrick, who is on trial. She had written a
9 statement or given a statement to Bryan Louis, it has been
10 gone over what that statement was. Yesterday she was
11 picked up and sent over to the County Detention Center.
12 We were debating on whether to put in phone or jail phone
13 calls last night, different snippets that she talked about
14 that would somewhat discredit her written statement to
15 Bryan Louis. She was brought over yesterday afternoon and
16 asserted her Fifth Amendment right to remain silent and
17 not to give a statement. Again, she was brought this
18 morning to court and again she pleaded the Fifth. After
19 we finished with Chief Louis, after the Defense called
20 Chief Louis to get that statement in and after my cross,
21 Ms. Couey's Defense attorney Don Colongeli asked for,
22 motion to lift the bench warrant for Ms. Couey. That was
23 placed on the record. And at the end of that motion Ms.
24 Couey gave the statement that my brother has been, I think
25 has been intimidating me as trying to make me take the rap

1 for his charges. That was recorded and is on the record.
2 We would actually try to seek to introduce that in
3 rebuttal. However, that was twice after she plead the
4 Fifth in court. So that is where we are, Ms. Couey is
5 actually across the street in the Detention Center. I
6 know we have the jury that is waiting in another holding
7 room right now. That would be our intention because I
8 think that does go to discredit her prior statement, go to
9 the voracity of that statement.

10 THE COURT: Okay.

11 MR. YARBOROUGH: Your Honor, we would state for the
12 record she has already asserted the Fifth. She hasn't
13 been allowed to testify and she, at this point she would
14 have to reopen up her statement and she wasn't subject to
15 cross-examination at the time that she gave the statement.
16 And it was in response to something the Court may have
17 said in another hearing that doesn't really, you can't
18 tell what the circumstances were surrounding her
19 statement. So we would ask that you not admit it.

20 THE COURT: Right. Well, I tend to agree with
21 Solicitor Hoffman that she can probably take the Fifth on
22 some and maybe not the Fifth on others. The problem we
23 are going to run into, is I think it is going to be very
24 confusing for the jury if the, if her statement is on the
25 record that the Court Reporter played just a moment ago

1 for us. You know, the jury is going to be wondering, when
2 did she make it, under what circumstances she made it. I
3 don't think we can tell the jury, hey, she, we had a
4 hearing to lift a bench warrant, I don't think we can tell
5 the jury that. So I think just by, blinding playing the
6 statement, of course, I am talking, Mr. Colongeli, he is
7 talking. So I just think we are probably creating some
8 problems there. If it was in an isolated different
9 situation probably would allow it. But I think under
10 these circumstances I am not going to allow it. I have
11 offered to the State, to have her brought back over for
12 Mr. Colongeli to speak with her one more time if she wants
13 to waive her Fifth. I will still be willing to do that
14 even though we do have a jury waiting. I am willing to do
15 that if the State wants that to take place.

16 MR. BROWN: Judge, actually, if we can, I guess we
17 can bring her right over just for her attorney to talk to
18 her one more time. At that point I guess we can go on the
19 record that the Defense is resting and go through any
20 directed motions at that point. That will give a little
21 time, because the jury is not going to hear, that will be
22 in rebuttal anyways.

23 THE COURT: So here is what we are going to do.
24 Let's bring the jury in, go ahead and seat them in the
25 box. Let me just explain to them we have just had some

1 last minute issues come up that we need to discuss and I
2 will thank them for their patience and we will put them
3 back in the jury room. If you will go ahead and make
4 arrangements to have her brought back over or bring her
5 over, whatever. Bring the jury in and we will sit them in
6 the box.

7 Curtis and Don are going to go over there. Don is
8 going to speak with her over there, if she changes her
9 mind they will bring her over. If not, she can stay.
10 Y'all can go on over and do that.

11 (Whereupon, the jury came into open court at
12 approximately 2:00 p.m.)

13 THE COURT: Let the record reflect the jury is back
14 in. Ladies and gentlemen, we have had some unexpected
15 legal issues come up that I am having to work through with
16 the lawyers. I wanted to give that explanation to you,
17 just didn't want you to think, you know, while you are
18 sitting here or back in here that we are just sitting
19 around drinking coffee and not doing anything. We are
20 working on the case. We still need a little bit more time
21 so I wanted to give that explanation to you and I am going
22 to ask you to go back to the jury room and hopefully we
23 will get you back out as soon as possible. Thank you for
24 your understanding, thank you for your patience. Go back
25 to your jury room. Thank you.

1 (Whereupon, the jury was excused from open court.)

2 THE COURT: Mr. Yarborough?

3 MR. YARBOROUGH: I thought you wanted me to rest so I
4 could put my motions on the record.

5 THE COURT: When we bring them back, let's just wait
6 and see what happens. And you can put your motions on the
7 record and then rest before the jury. That is not a
8 problem.

9 MR. BROWN: Do you want him to go ahead and make his
10 motions now with the presumption that he is going to rest?

11 THE COURT: Let's just wait to hear what she is going
12 to do.

13 (Whereupon, a short break was taken.)

14 THE COURT: Let's go ahead and get your motions on
15 the record with the understanding that when the jury comes
16 out you will rest. So go ahead and get your motions on
17 the record.

18 MR. YARBOROUGH: If the Court, please, Your Honor. I
19 would like to renew my motion for a directed verdict. I
20 think even more so at the close shows that the State did
21 not prove more than 28 grams of methamphetamine. And
22 still talk about some of the search issues and just to
23 protect for the record and also the fact that she did not
24 take the Fifth in front of the jury.

25 THE COURT: So noted and denied. And order of

1 closing, the State closes in full, the Defense closes in
2 full. And then because the Defense put up a little bit of
3 a case the State gets the right to reply to any new
4 matters that you bring out. Do y'all need any more time.

5 MR. BROWN: I will get Madison out.

6 MR. YARBOROUGH: I am ready.

7 THE COURT: Okay. If you guys are ready, get the
8 jury out, you will rest and no reply. And then we will do
9 closing. Let's bring the jury out, please.

10 (Whereupon, the jury came into open court at
11 approximately 2:32 p.m.)

12 THE COURT: Let the record reflect the jury is back
13 in. Mr. Yarborough.

14 MR. YARBOROUGH: The Defense rest, Your Honor.

15 THE COURT: Okay. Thank you and does the State have
16 any reply case?

17 MR. BROWN: No, Your Honor.

18 THE COURT: Okay. Thank you. Ladies and gentlemen,
19 what we have left to do in this case, the lawyers will
20 make their closing arguments to you. The State will go
21 first and then the Defense, then the State has an
22 opportunity to come back with what we call a reply
23 argument, if it so chooses concerning any new matters
24 raised by Mr. Yarborough in his closing. And then we will
25 either, depending upon how long they take, we will either

1 take a break before I charge you the law or we will go
2 straight into charge on the law. After that is done then
3 I will instruct you to begin your deliberations. Now,
4 with all of that said. This is the last opportunity that
5 these good lawyers have to advocate for their respective
6 sides. So please give them your undivided attention.
7 Solicitor, are you ready?

8 MR. BROWN: Yes sir, Judge, thank you. May it please
9 the Court. Ladies and gentlemen, thank you so much for
10 being here and bearing with us as we are working. I know
11 you don't always get to see that and we are working and we
12 appreciate your attention and just your patience with us.
13 Family business, what do you want to start out with. It
14 is a family business. You have Phillip Derrick and Ms.
15 Couey are sister and brother. They live at 110 Barkwood
16 Lane and it is what it appears to be. They deal drugs.
17 Ladies and gentlemen, we did jury selection the other day.
18 Part of it is, we want people with common sense, people
19 who don't try to think too much into it, look at it, see
20 what is there. It is common sense and you can see what is
21 on the video, you can see what has been presented in
22 evidence, what all points to it. Phillip Derrick, his
23 sister deal drugs and they had over 28 grams of
24 methamphetamine in their possession and they also had
25 alprazolam with them. So before I get into all of the

1 facts, again, Ms. Hoffman the other day told you what
2 trafficking is, the Judge is also going to talk to you
3 what trafficking is too. He is going to give you the
4 definition of it and I want to go over that with you as
5 well. But trafficking meth is a person, Mr. Derrick,
6 Phillip Derrick, he is on trial in this case. A person
7 who knowingly sells, manufactures, delivers, purchases or
8 brings into this State. And the other day Ms. Hoffman
9 told you about actual and constructive possession. Think
10 after what you heard the other day, or yesterday and
11 today, provides financial assistance, otherwise aids,
12 abets, attempts, conspires to sell, brings into the State
13 who knowingly or in actual constructive, and actual
14 possession or constructive possession. Folks, Mr. Phillip
15 Derrick covers all of that. This trafficking encompasses
16 a whole range of things, brings it to a location, you move
17 it around, you try to get in possession of it, you are in
18 possession of it; you work with your sister, gave
19 possession, breaking it down in smaller baggies,
20 distributing that to other people in the community;
21 conspired to do that, you sell it, distribute it. That is
22 all trafficking. And you have heard that through the
23 testimony that the CI came in there, Ms. Couey is in
24 there, Mr. Phillip Derrick is in there, the camper. That
25 buy transpires and then the next couple of days they have

1 the search warrant. Again, what is actual possession, it
2 means that you are found with the meth on your person, in
3 your hand. Actual possession, the bag of meth, it is over
4 here in this Best Kit, 24.24 grams, I believe, .64 grams,
5 24.64 grams. That was in Phillip Derrick's pocket. We
6 will talk about the weight on trafficking in a moment.
7 But that alone in his pocket, 24.64 grams is trafficking.
8 And I will talk about where a trafficking case, then you
9 add in the other baggies. The other baggies that are in
10 the camper, and you add those up and it is over 28 grams,
11 28.11 grams. So trafficking is pretty self-explanatory.
12 A person, Phillip Derrick, who knowingly sales,
13 manufactures, delivers, purchases, brings into this State,
14 provides financial assistance. They are all living there
15 in that camper. They want to say at one point, well, she
16 lives there, she lives in the camper, it is her camper.
17 Well, on his property, the Deed is his property. He is
18 providing power out there, he is out there, he is helping
19 break this down and providing, actually bringing bags in
20 to be broken up into small amounts. It all wraps in there
21 together. Actual or constructive possession. So that is
22 the trafficking. Constructive possession means the drugs
23 were found in a place or in a space such as your home,
24 car, storage unit or your, you can have dominion and
25 control over that on your property. And the Judge will

1 talk to you more about that. The possession of
2 alprazolam, the 12 pills that you heard about, essentially
3 Xanax, no prescription. Where you saw the pictures and on
4 the video they were sitting there right around the stove.
5 Ms. Couey is on the right as you come into the camper.
6 Mr. Phillip Derrick is sitting right there next to it and
7 it is all right there in the middle. So that is the
8 possession of alprazolam and the trafficking. One thing
9 that the Judge has already told you about and Ms. Hoffman
10 did too, is that is the State's burden of proof. It is
11 our burden of proof to prove to you beyond a reasonable
12 doubt that he did commit these crimes. And what is that.
13 It is proof that leaves you firmly convinced. It does not
14 mean beyond all, every or any doubt, but it is beyond a
15 reasonable doubt that leaves you firmly convinced. And
16 the Judge will say, there is not anything, there is very
17 few things in this world that are absolutely, we know
18 actually happened. But there is stuff every day that you,
19 beyond a reasonable doubt know, you ride down the road and
20 the whole road is completely wet. There is not a house or
21 anything like that, you realize it rained that day. You
22 didn't see it but it rained that day. You use common
23 sense because you can see through the evidence here,
24 beyond a reasonable doubt that it rained that day. Well,
25 here you can use the same kind of concept. It is not all,

1 every or any, but it is, leaves you firmly convinced that
2 he did this. So what did you hear. Again, 110 Barkwood
3 Lane, he is the owner, he is the Deed, Deed in hand,
4 bought it back in 2014, Phillip Derrick. His whole family
5 lives there, lives in the mobile home, and do their
6 business out back in the camper. The CI goes in and buys,
7 they get a search warrant, they go in and lawful search
8 warrant. And who was in there, the two people, Phillip
9 and Jamie. As they come what did Phillip say, what does
10 he say when they come in.

11 (Whereupon, a video was played for the jury.)

12 MR. BROWN: I want to see the search warrant. I want
13 to see the search warrant. Why? He knows what is in
14 there. What is he doing sitting there. If you back that
15 up he is sitting there, you can see his hand right there.
16 What did law enforcement say. The two officers went in,
17 Bryan Louis and Wes McClinton. They walked in, he dropped
18 the baggy there. What is he in there doing. State's 5,
19 see a box with a bunch of individualized baggies in it.
20 They are separating it out for distribution. He continues
21 to say, I want to see the search warrant, I want to see
22 the search warrant, fighting with law enforcement. He
23 does get rough in there. They are not going to say, hold
24 on, he said I want to see the search warrant. Let me
25 uncuff him, we are in this camper and something bad

1 happens. They follow protocol, you have got him
2 controlled, cuffed and then they search him. They read
3 him the search warrant, they read him his Miranda rights
4 right after he was cuffed. That continues on. They
5 search the camper and again, this is Jamison Lovett's
6 video.

7 (Whereupon, a video was played for the jury.)

8 MR. BROWN: As they pull up, see, he first goes in
9 the mobile home. They search and you can see this whole
10 video in the entirety if you would like, it is about an
11 hour and 26 minutes. But they search the house, Phillip
12 Derrick's mother is in there. I believe it is Ms. Couey's
13 son and child. They don't find anything in the house.
14 But then they go out back and you can see where Mr.
15 Derrick is when he gets out to the camper. And he is up
16 against the camper, he is laying on his right side and
17 they search him. They continue to search the camper and
18 then at the very end it is time to check Mr. Derrick's
19 pants because they haven't been able to do that up until
20 this point.

21 (Whereupon, the video continues to play.)

22 MR. BROWN: After they find that in his pocket he
23 doesn't say it is Jamie's. He is defeated at that point.
24 he rolls over, puts his head down. He knew it was there
25 and he was doing that the whole time trying to hide it so

1 they couldn't get in there, to check what was in his
2 pocket. Folks, going to the statements, I will try to
3 move through this fairly quickly. It is straightforward.
4 He gives a statement to law enforcement the next day and
5 he says the dope found in the camper belongs to Jamie
6 Couey. What does he say about the one in his pocket.
7 Folks, that is an admission by omission. He didn't say
8 the dope in my pocket was Jamie Couey's. He is claiming
9 it. The dope in the camper was hers but not the dope in
10 my pocket. Then you look at hers. All the drugs,
11 narcotics located inside the camper at 110 Barkwood Lane
12 belong to me, not my brother, Phillip Derrick. So I
13 accept full responsibility for the actions, for all items
14 found by DU on 4/9/2018. Folks, they are working
15 together, they are splitting up who owes what, who owes
16 what. But remember, when DU goes in there, who is in
17 there and drops a bag inside, who has got it in his
18 pocket. And as the SLED chemist stated, that main bag of
19 meth is the crystal meth along with two other individual
20 baggies in there. They are all pure meth, pure crystal
21 meth and they all appear to be the same, same batch, just
22 been separated out in smaller bags. Again, it is a family
23 business. The Judge is going to tell you, during the law,
24 during trafficking or possession of meth, that two or more
25 people can be in possession. Both of them were charged,

1 both of them were charged with trafficking meth,
2 possession of alprazolam. The reason being is they are
3 both working together, they both have it collectively.
4 The three bags and alprazolam that are out in the open in
5 the camper and then he has the majority of the drugs in
6 his pocket. He can't deny that those drugs were in his
7 pocket. They are pulled out and you can see for your own
8 eyes. That is actual possession. The Defense wants you
9 to, during their cross-examination of witnesses, say, well
10 that is not his camper, that is her camper. And then when
11 the initial arrest is going on and Cody Bishop is holding
12 down his cuffs while they are getting the probes out of
13 his back, I am not sure exactly what it eluded to but I
14 took it as that law enforcement planted those drugs in his
15 pocket. But you can clearly see, if you slow it down,
16 what Cody Bishop is doing is holding his hands down on the
17 cuffs to make sure he is detained and is still to make
18 sure they can get those probes out. His hand is not
19 moving, he is not stuffing it down in his pants pocket.
20 And then there is a question about a black BMW, that was
21 asked of Jamie Lovett. Did you see a black BMW pull up in
22 the driveway. I don't know if that is to try to suggest
23 that Phillip Derrick drove up when they were executing the
24 search warrant but obviously that wasn't him, he was back
25 in the camper. These are all different ideas to take your

1 eye off the ball that he was back there, back there both
2 times and he is back there with the drugs. Again, it is
3 common sense folks. One thing the Judge is going to tell
4 you, is that the trafficking, he is charged with
5 trafficking methamphetamine 28 grams or more. And it is,
6 if you add it up, it is 28.11 grams. It takes it over the
7 threshold. To traffic drugs is also trafficking 10 grams
8 or less than 28 grams. Two different thresholds. But he
9 is going to tell you about it. And if you think they are
10 not working together and that he is not in possession of
11 the other three bags inside of the camper, that you can
12 consider trafficking between 10 and 28 grams. Ladies and
13 gentlemen, I submit to you that all the drugs, that they
14 were working together. That the trafficking is 28 grams
15 or more. However, if you don't feel that way he still has
16 24.64 grams in his pocket. Again, this is pretty
17 straightforward. You have it on video, you see him
18 pulling it out of his pocket, he is the owner of the
19 property, it is a brother and sister business. You see
20 the pictures of what they find inside and what is in his
21 pocket. Ladies and gentlemen, based on all the evidence
22 it is pretty obvious of what he is guilty of. And it is
23 trafficking meth, 28 grams or more and possession of
24 alprazolam. Thank you.

25 THE COURT: Mr. Yarborough.

1 MR. YARBOROUGH: If the Court please. I want to
2 thank y'all too. It has been a long couple of days, I
3 know y'all have a lot of time in and out. I am sorry
4 about that, I am sorry for that it has taken this long but
5 we appreciate your service and we appreciate you being
6 here today. And I told you when I got up here in the
7 beginning, I told you two things. I told you, one, that
8 the case that the State would put up would show that it
9 was brother helping his sister. And I also told you that
10 they would not be able to prove more than 28 grams against
11 my client. I stand by both of those. What you have here
12 is Mr. Derrick trying to put his sister up in a camper
13 back there so that she would have a place to be so that
14 she could live and she could, you know, make it, trying to
15 do the right thing. Has got a house, a house was up
16 front, nowhere in that house did you find any drugs.
17 There is no question about who lived in the camper. She
18 lived in the camper. No matter what the State wants to
19 say, you will be able to look at those pictures and I will
20 show them to you again in a minute. I mean, there is a
21 woman living in there, there was one bed. She was the
22 woman living there and she was there when he came. She
23 was also the woman there when they sent the CI in and made
24 the buy from her. Nowhere does it say that they ever made
25 a buy from him because they didn't, they didn't make a buy

1 from him. Mr. Derrick is a good man trying to help his
2 sister out and allowing her to live on the back part of
3 this property. Now, let's look at the evidence that has
4 been presented. I want you to look at the pictures
5 closely that have been put into evidence and these are the
6 ones that we put in that show that a woman was living in
7 there, a woman's clothes, you are not going to see any
8 men's clothes in that house. All the pictures show that a
9 woman's stuff was in there. That is Ms. Couey's, that was
10 her stuff. She was there, you saw her in the film. She
11 was the one there dealing narcotics. He wants to go back
12 and talk about, well, the officer said that Mr. Derrick
13 was driving that black car and he pulled up about five
14 minutes before all of this happened. He went back there
15 and checked on his sister. I suggest that he went back
16 there to check on his sister and said, what the heck are
17 you doing out here, you are making a mess. I suggest to
18 you that is what happened. You can see that he lived in a
19 house, he trying to take care of his mama, trying to take
20 care of his kids, trying to take care of her kids and
21 allowing them to live in there and trying to spot for his
22 sister. We never denied anywhere that he was the owner of
23 that house. He is the owner of that house. It is just he
24 had that camper set up back there for his sister. A lot
25 of people do that, a lot of people have family members

1 that are, you know, having trouble, not doing great. They
2 are trying to figure out what is the best way to take care
3 of them, get them to live a hundred yards from our house.
4 We get them to put them in a camper back there so we can
5 keep an eye on them, so we can make sure they eat, make
6 sure they do stuff. You go back and check on them, you
7 fuss at them, you do whatever, you tell them to quit doing
8 stuff. You can't control a grown woman, he couldn't
9 control her. But he did try to do the right thing by her.
10 He did try to have a place for her. They talk about
11 running electricity out there, yes, that was a nice thing
12 for him to do. I mean, it is not a crime, it is not a
13 crime. You go look at the drugs in this case, the
14 pictures of them that have been put into evidence. You
15 will see over and over again that she had bunches of
16 narcotics around in there. She had it all in there, she
17 was in there doing it. You can see where she is in there
18 doing it, he didn't have time to do this when he pulled up
19 five minutes beforehand. Look at all the stuff where she
20 is doing drugs. Those are pink things, those are woman's
21 stuff, that is not stuff that a man has. Over and over
22 again the evidence is clear that she was the one living
23 there, she was the one doing the drugs and she was the one
24 that was selling the drugs. Let's go look at the
25 affidavit for the search warrant. The affidavit for the

1 search warrant says in there, fine officer over here
2 testified that he had run an informant in there. He ran
3 an informant in there, the informant was equipped with
4 audio/video recording capabilities to make contact with
5 Couey who exchanged a clear plastic bag containing crystal
6 like substance, with recorded U.S. currency. The
7 informant then left the residence and made contact with
8 the agents and relinquished the drugs. Couey has been
9 arrested in this residence in the past and drug
10 paraphernalia has been located inside the residence. She
11 has been there before, she has done it before, they knew
12 she was doing it, they knew she was doing it when they
13 went there with the search warrant. Phillip shows up five
14 minutes beforehand and happens to be in the wrong dadgum
15 place at the wrong dadgum time. But he was still trying
16 to do the right thing by his sister. Now, what they don't
17 want to talk about is this. They don't want to talk about
18 the very next day. One person is going to one jail, one
19 person is going to the woman's jail. Both parties go in
20 and they sit down and talk to this officer. The officer
21 reads them their rights, no evidence those two ever
22 talked. The officer reads him his rights. And he says,
23 look, those were not my drugs in there, those were hers.
24 He tells them that the very next day. Okay. Then they
25 interview his sister. And the State keeps wanting to say

1 that in interviewing her sister, that she doesn't take
2 responsibility for the drugs that were found there. What
3 she says, she says, what she says in the last line, I
4 accept full responsibility for all items found by DEU on
5 4/9/18. She takes total responsibility for it. There is
6 no evidence in this courtroom today that doubts that
7 statement. That statement is fact. There is nothing that
8 can say that disputes that. What you may have, what you
9 may have is a brother trying to help his sister out. You
10 may have a brother trying to protect her when the police
11 came in there. You may have a brother that picked up some
12 drugs and put them in his pocket. Or you may have, he was
13 searched three times, they didn't find the drugs before
14 that. There is no telling how it got there. Right.
15 There is no telling how it got there. But we do know, but
16 we do know the next day, the very next day, without any
17 prompting, his sister says, look, those are my drugs, this
18 is my fault, this is my baby. He says, I will talk to
19 you, policeman. Read me my rights. I will write it down,
20 I will write it down. She writes it down. That is
21 indisputable evidence. That is the facts. Judge Hocker
22 is a great Judge, I have tried a bunch of cases in front
23 of him. He is going to read you the law in this case and
24 he is going to tell you that you have to look at the
25 weight of the evidence. You have to look at what the

1 weight of the evidence is. And if you look at the
2 evidence and you see that there is a question about the
3 evidence then the question should be resolved in favor of
4 the Defendant. Here you have got it, you have got it,
5 that is your proof. That is your proof beyond a
6 reasonable doubt. Now, I am not going to sit here and try
7 to define reasonable doubt for you because it is a hard
8 thing to find. But it is something that we all know
9 about, it is all something we are proud of, it is all
10 something that our Country is built on, it makes our
11 system of justice work. Okay. And in this case our
12 system of justice would be failed if you find Phillip
13 Derrick guilty. Why would it be failed. Because the
14 evidence is clear that he didn't traffic in 28 grams or
15 more. That was clear. I told you that when we walked out
16 here, the evidence would be clear. No matter how hard
17 that chemist, and I like her, she is nice, she is a fine
18 chemist. Now matter how hard she tried, it was hard for
19 her to get over that, .027, .007 that we were talking
20 about. What that was was the difference, what that was
21 was the difference in the amount of drugs between 28 grams
22 and 27.5 grams. That is a challenge, okay, that is a
23 challenge. They tried hard. I will also tell you this, I
24 put into evidence the arrest warrants in this case. And I
25 would submit to you to go look at the arrest warrants and

1 when these arrest warrants were put together there were
2 only three bags of drugs there. I don't know where that
3 other .5, .37 grams of meth came from. But they had to
4 put in there to make sure that they got it over the 28
5 grams. This isn't a case of trafficking of more than 28
6 grams. And when we walked in here the Judge told you, he
7 told you this individual has been indicted for trafficking
8 in more than 28 grams. And I stood up here and I told you
9 that that is not possible, it is not probable, it is not
10 going, they are not going to be able to prove that and
11 they haven't. They haven't because it didn't happen.
12 They haven't because it didn't happen. Now, the
13 Prosecutor who is a great guy, is doing his job, is trying
14 hard to speculate and push that number up and push it
15 high. But it is a hard place to go to, that is a big
16 burden. That is a big burden and it is such a small
17 amount that you have to look at it and say, does that
18 really make sense. Does my conscious want me to say that
19 they did convict him of more than 28 grams. I don't think
20 so, I don't think so. I want to say this, I really
21 appreciate your service. We wouldn't be able to function
22 without you. I have had the great fortune of trying a
23 bunch of cases in Greenwood and I have always found that
24 the jurors were fair to the State and to the Defendant.
25 And that is all I am asking here is for you to be fair to

1 Mr. Derrick and find him not guilty. Thank you.

2 THE COURT: Thank you, Mr. Yarborough. Solicitor, do
3 you have any reply arguments?

4 MR. BROWN: Just briefly, Judge. Ladies and
5 gentlemen, when you go back in the jury room, what we say
6 up here, that is for you, it is our arguments. What you
7 need to do is remember what was said on that witness
8 stand. Part of that, what I want to bring you back to is
9 that BMW. Officer Lovett, he didn't know who walked out
10 of that car. And said, if somebody would have got out of
11 that car we would have seen them. It wasn't Phillip
12 Derrick, he was back in the camper. So that, he didn't
13 walk in there five minutes before, they would have seen
14 him. And that is not what was said on the stand. Y'all
15 need to recall that from your recollection. Also what was
16 said with the chemist. She did less as a plus or minus
17 .01. You add that it up, it is still over 28 grams with
18 the meth. There were three bags, the larger bag and the
19 other two. So it is still over 28 grams. Lastly, again,
20 this is a family business. I think he said he was trying
21 to help his sister survive. They were surviving by
22 dealing meth, by trafficking meth. Look at his statement,
23 you will have it. He didn't say anything about what was
24 in his pocket. He directed what was in the camper. We
25 know, it was also testified to on that stand, when they

1 entered the camper, he had meth in his hand too, he
2 dropped it on the floor. Ladies and gentlemen, use your
3 common sense. You can watch it back and forth as much as
4 you want. You can look at the statements, look at the
5 video. At the end of the day Phillip Derrick is guilty of
6 trafficking methamphetamine over 28 grams and possession
7 of alprazolam. Thank you.

8 THE COURT: Thank you, Solicitor. Does anybody need
9 a short break before we go to my charge which will take
10 approximately 20 minutes. Anybody need a break.

11 (No response.)

12 THE COURT: Move forward. Okay. Mr. Foreman and
13 ladies and gentlemen of the jury, I now will charge you
14 the law that applies to this case. You must consider the
15 charge as a whole and not focus on some portions to the
16 exclusion of others. The indictment is charging the
17 Defendant with trafficking methamphetamine, more than 28
18 grams and possession of alprazolam. I remind you, the
19 fact that the Defendant was arrested, charged and indicted
20 in this case is not evidence in this case and cannot be
21 considered by you as evidence of guilt in this case; nor
22 does it create any presumption or inference of guilt.
23 These documents are simply the formal written instruments
24 which contain the charges made against the Defendant.
25 These are the formal documents by which this case is

1 brought into this court.

2 Once again, the indictments in this case allege
3 several different offenses against the Defendant.
4 Indictment one is 2018-GS-24-1624, trafficking
5 methamphetamine, more than 28 grams. And the second
6 indictment is 2018-GS-24-1626, possession of alprazolam.
7 Each indictment charges a separate and distinct offense.
8 You must decide each indictment separately on the evidence
9 and the law applicable to it uninfluenced by your decision
10 as to any other indictment. The Defendant may be
11 convicted or acquitted on any and all of the offenses
12 charged. You will be asked to write a separate verdict of
13 guilty or not guilty for each indictment. And I have a
14 verdict form that I will show you at the conclusion of my
15 jury charge, Mr. Foreman.

16 The Defendant has plead not guilty to these
17 indictments and therefore that plea puts the burden on the
18 State to prove the Defendant guilty. A person charged
19 with committing a criminal offense in South Carolina is
20 never required to prove himself innocent. I charge you
21 that it is an important rule of law, that a Defendant in a
22 criminal trial, no matter what the seriousness of the
23 charge may be will always be presumed to be innocent of
24 the crime for which the indictment was issued unless guilt
25 has been proven by evidence satisfying you of that guilt

1 beyond a reasonable doubt. This presumption of innocence
2 does not end when you begin your deliberations but it
3 accompanies the Defendant throughout the trial unless you
4 reach a verdict of guilt based on evidence satisfying you
5 of that guilt beyond a reasonable doubt. Now, this
6 presumption of innocence is like a robe of righteousness
7 placed about the shoulders of the Defendant which remains
8 with the Defendant unless it has been stripped from the
9 Defendant by evidence satisfying you of the Defendant's
10 guilt beyond a reasonable doubt. Now, this presumption of
11 innocence is not mere legal theory, it's not just a legal
12 phrase, it is a substantial right to which every Defendant
13 is entitled unless you, the jury, are satisfied from the
14 evidence of the Defendant's guilt beyond a reasonable
15 doubt.

16 Once, again, the State has the burden of proving the
17 Defendant guilty beyond a reasonable doubt. Some of you
18 may have served previously as jurors in civil cases where
19 you were told that it is only necessary to prove that a
20 fact is more likely true than not true since it is by the
21 greater weight or preponderance of the evidence. In
22 criminal cases the State's proof must be more powerful
23 than that. It must be beyond a reasonable doubt. Proof
24 beyond a reasonable doubt is proof that leaves you firmly
25 convinced of the Defendant's guilt. Now, ladies and

1 gentlemen, there are very few things in this world that we
2 know with absolute certainty. And in criminal cases the
3 law does not require proof that overcomes every possible
4 doubt. If based on your consideration of the evidence you
5 are firmly convinced that the Defendant is guilty of the
6 crimes charged then you must find the Defendant guilty.
7 If on the other hand you think there is a real possibility
8 that the Defendant is not guilty you must give the
9 Defendant the benefit of the doubt and find him not
10 guilty.

11 Ladies and gentlemen, I remind you that during this
12 trial you and I have had certain duties to perform. As
13 the trial Judge it is my responsibility to preside over
14 the trial of this case. And also I have had the duty to
15 rule on the admissibility of the evidence offered during
16 this trial. You are to consider only the competent
17 evidence before you. If there was any testimony order
18 stricken from the record in this case during this trial
19 and I don't think that there was, but if there was you
20 must disregard that testimony. You are to consider only
21 the testimony which has been presented from the witness
22 stand, any exhibits which have been made a part of the
23 record in this case and any stipulations of counsel. I
24 have the additional duty to charge you the law that
25 applies to this case. As the presiding Judge I am the

1 sole Judge of the law in this case. And it is your duty
2 as jurors to accept and apply the law as I now state it to
3 you. If you already have any ideas to what the law is or
4 what the law ought to be and it does not agree with what I
5 now tell you the law is, you must abandon your idea
6 because you are sworn to accept the law and apply the law
7 exactly as I state it to you.

8 In every case tried in this court, ladies and
9 gentlemen, before a jury, the jury becomes the sole and
10 exclusive judge of the facts in the case. A trial Judge
11 cannot intimate, state, comment on or make any statement
12 to a trial jury about the facts in the case. Since you,
13 the jury, are the sole judge of the facts in this case you
14 are not to infer of what I have said during the progress
15 of this trial in ruling upon the admissibility of evidence
16 or otherwise; or anything that I say now during the course
17 of this instruction to you that I have any opinions about
18 the facts in this case. The law does not allow me to have
19 an opinion about the facts in this case. This is a matter
20 solely for you, ladies and gentlemen, to determine, as
21 jurors it is your duty to determine the effect, value and
22 weight of the evidence presented during this trial.

23 Now, there are two types of evidence which are
24 generally presented during a trial. Being direct evidence
25 and circumstantial evidence. Direct evidence directly

1 proves the existence of a fact and does not require
2 deduction. Circumstantial evidence is a proof of a chain
3 of facts and circumstances indicating the existence of a
4 fact. Crimes may be proven by circumstantial evidence and
5 the law makes no distinction between the weight or value
6 to be given to either direct or circumstantial evidence.
7 However, to the extent the State relies on circumstantial
8 evidence, all of the circumstances must be consistent with
9 each other and when taken together point conclusively to
10 the guilt of the accused beyond a reasonable doubt. If
11 these circumstances merely portray the Defendant's
12 behavior as suspicious, the proof has failed. The
13 Defendant, the State rather, the State of South Carolina,
14 once again, has the burden of proving the Defendant guilty
15 beyond a reasonable doubt. This burden rest with the
16 State regardless of whether the State relies on direct
17 evidence, circumstantial evidence or some combination of
18 the two.

19 Necessarily, ladies and gentlemen, you must determine
20 the credibility of the witnesses who have testified in
21 this case and the evidence presented. Credibility simply
22 means believability. It becomes your duty as jurors to
23 analyze and to evaluate the witnesses and the evidence and
24 determine the credibility of the witnesses and the
25 evidence. In determining the credibility of witnesses who

1 have testified in this case you may believe one witness
2 over several witnesses; or several witnesses over one
3 witness. You may believe a part of the testimony of a
4 witness and reject the remaining part of the testimony of
5 that same witness. You may believe the testimony of a
6 witness in its entirety or reject the testimony of a
7 witness in its entirety. You may consider whether any
8 witness was exhibited to you, has exhibited to you any
9 interest, biased, prejudiced, or other motive in this
10 case. You may also consider the appearance and manner of
11 a witness while on the witness stand.

12 Now, as I explained to you yesterday concerning the
13 expert witnesses. The rules of evidence ordinarily, with
14 some exception, do not permit witnesses to testify to
15 opinions or conclusions. An exception to this rule exist
16 for a witness we call an expert witness. A witness who by
17 education and experience has become an expert in some art,
18 science, profession or calling may state an opinion as to
19 relevant and material matters in which the witness claims
20 to be an expert and may also state the reasons for the
21 opinion. You should consider any expert opinion received
22 in evidence in this case. And like any other evidence,
23 give it the weight you think it deserves. If you decide
24 that the opinion of an expert witness is not based on
25 sufficient education and experience or if you conclude

1 that the reasons given in support of the opinion are not
2 sound, or that the opinion is outweighed by other evidence
3 you may disregard that opinion entirely. An expert
4 witness' testimony is to be given no greater weight than
5 that of other witnesses simply because the witness is an
6 expert. Furthermore you are not required to accept an
7 expert's opinion even though it is not contradicted.

8 Mr. Foreman and ladies and gentlemen of the jury, I
9 instruct you and emphasize the fact that the Defendant did
10 not testify in this case is not a factor to be considered
11 by you in any way in your deliberations and in your
12 consideration on the question of the guilt or innocence of
13 the Defendant. It must not be considered by you in any
14 manner whatsoever. A Defendant has the constitutional
15 right to remain silent and the assertion of this right
16 must not be considered by you in your deliberations. I
17 repeat, under your oath, you are to draw no conclusions
18 whatsoever from the fact that the Defendant in this case
19 did not testify. The fact that this Defendant did not
20 testify should not even be discussed in the jury room.
21 The burden of proof, as I have already stated to you, is
22 on the State. The Defendant is not required to prove his
23 innocence. The burden of proof remains on the State to
24 prove guilt beyond a reasonable doubt.

25 Now, ladies and gentlemen, in order to establish

1 criminal liability, criminal intent is required. For
2 example, the mental state required to be proven by the
3 State for a particular crime might be purpose, intent,
4 knowledge, recklessness or criminal negligence. Criminal
5 intent must be proven by the State beyond a reasonable
6 doubt. Criminal intent is always a matter that must be
7 determined by the jury from the circumstances surrounding
8 the situation. Now there is no way to prove intent to a
9 mathematical certainty. There is no way medical science
10 can dissect a person's brain and determine what the person
11 had in mind. So the law says that criminal intent may be
12 inferred from the circumstances shown to have existed.
13 This is how you make a determination of whether or not the
14 element of requiring intent was present. It is not
15 necessary to establish intent by direct or positive
16 evidence, but intent may be established by inference in
17 the same way as any other fact, by taking into
18 consideration the acts of the parties and all the facts
19 and circumstances in the case. Criminal intent is a
20 mental state, a conscious wrongdoing. It is up to you to
21 determine what the Defendant intended to do based on the
22 circumstances shown to have existed.

23 Now, a statement made by the Defendant has been
24 admitted into evidence in this case. While the Court has
25 determined that the statement is admissible, you must

1 determine whether the statement was made by the Defendant
2 voluntarily and of his own free will. This means that the
3 statement was not caused by pressure, force, fear, threats
4 of coercion or intimidation; or by hope or a promise of
5 leniency or a reward of any kind. In determining whether
6 the statement was voluntary you should and can consider
7 both the circumstances of the Defendant and the details of
8 the question. Some of the factors that you may consider
9 are the age of the Defendant, the Defendant's education or
10 lack thereof; the Defendant's mental ability or capacity;
11 the Defendant's IQ or intelligence; the Defendant's
12 background and environment; the place and length of the
13 detention; the nature of the questioning and the advise or
14 lack thereof to the Defendant of his constitutional rights
15 including but not limited to the right to remain silent,
16 that any statement could be used against him in a court of
17 law, the right to have a lawyer present and if he cannot
18 afford a lawyer a lawyer would be appointed to represent
19 him without any cost; and that he could stop making a
20 statement at any time. You must carefully consider all of
21 the surrounding circumstances before you give any weight
22 to an alleged statement. The State has the burden of
23 proving beyond a reasonable doubt that the alleged
24 statement by the Defendant was voluntary. If you
25 determine it was you may give the statement any further

1 consideration that you believe is proper. You must decide
2 what weight, if any, should be given to this statement.

3 If you determine the statement was not the free and
4 voluntary statement of the Defendant you should not
5 consider the statement at all.

6 Now, let me explain to you the offense, the crime of
7 trafficking. The Defendant is charged and indicted with
8 trafficking methamphetamine, 28 grams or more. The State
9 must prove beyond a reasonable doubt that the Defendant
10 knowingly sold, manufactured, cultivated, delivered,
11 purchased, brought into this State, provided financial
12 assistance; or otherwise aided, abetted, attempted or
13 conspired to sell, manufacture, cultivate, deliver,
14 purchase or bring into this State, was knowingly in actual
15 or constructive possession, knowingly attempted to become
16 in actual or constructive possession of methamphetamine.
17 To prove possession the State must prove beyond a
18 reasonable doubt that the Defendant had both the power and
19 the intent to control the disposition or use of the
20 methamphetamine. Possession may be either actual or
21 constructive. Actual possession means that the
22 methamphetamine was in the actual, physical control of the
23 Defendant. Constructive possession means that the
24 Defendant had dominion and control or the right to
25 exercise dominion or control over either the

1 methamphetamine itself or the property on which the
2 methamphetamine was found. Mere presence at the scene
3 where the drugs were found is not enough to prove
4 possession. Two or more persons may have joint possession
5 of a drug. The State must also prove beyond a reasonable
6 doubt that the amount of the methamphetamine or any
7 mixture containing methamphetamine was 28 grams or more
8 but less than 100 grams. Now if you find that the State
9 has failed to prove beyond a reasonable doubt that the
10 Defendant had possession of more than 28 grams of
11 methamphetamine then you may consider what we call the
12 lesser included offense of trafficking methamphetamine,
13 between 10 grams and 28 grams.

14 The other charge is possession of alprazolam. The
15 Defendant is charged with possession of alprazolam. The
16 State must prove beyond a reasonable doubt that the
17 Defendant knowingly or intentionally possessed alprazolam.
18 Knowingly means with knowledge, consciously, not
19 accidentally. Intentionally means willfully, intending
20 the result which actually occurs, not accidentally or
21 involuntary. Intent may be shown by acts and conduct with
22 the Defendant and other circumstances from which you may
23 actually and reasonably infer intent. To prove
24 possession, the same law that governs trafficking, as I
25 just explained to you, also applies to possession of

1 alprazolam.

2 Now, ladies and gentlemen, there are two possible
3 verdicts on each charge, that being not guilty and that
4 being guilty. Your verdict, ladies and gentlemen, must be
5 unanimous among the 12 of you. Mr. Foreman, when you
6 reach a unanimous verdict you are to write the verdicts on
7 the verdict form and I am going to show you in just a
8 second, knock on the door and inform the Bailiffs that you
9 have reached a unanimous verdict. Your verdict, once
10 again, must be based upon the evidence and the law
11 presented to you. And I realize what I have just read to
12 you was a lot, therefore, as I normally do, I will provide
13 a copy of this charge to you for your use, if any, in any
14 manner you feel like is important during your
15 deliberations. Now, I am going to come down and explain
16 to you the verdict form, it is not difficult. This top
17 part, Mr. Foreman, is just the caption of the case. The
18 State of South Carolina versus Phillip Franklin Derrick.
19 Okay. And as to the charge of trafficking
20 methamphetamine, more than 28 grams. We, the jury,
21 unanimously find the Defendant, Phillip Franklin Derrick,
22 not guilty or guilty. You will put your initials on the
23 appropriate line of your verdict. If you find the
24 Defendant guilty of trafficking methamphetamine, more than
25 28 grams then proceed to question three which deals with

1 the charge of possession of alprazolam. Okay. If you
2 find the Defendant not guilty on the trafficking
3 methamphetamine, more than 28 grams, then you can go down
4 to number two and consider the lessor included charge of
5 trafficking methamphetamine, between 10 and 28 grams. And
6 make a determination whether or not your verdict
7 unanimously is not guilty or guilty and write your
8 initials on the appropriate line. On the back page, you
9 sign it and date it. Okay. Now, any questions that arise
10 during the deliberations you need to write it down on the
11 paper and sign it and notify the Bailiff that you do have
12 a question that needs to be presented to me. I want all
13 14 of you to go back in the jury room, do not start your
14 deliberations yet. I just need to check with the lawyers
15 to make sure that I don't need to add or take away
16 anything that I just charged you. I don't anticipate
17 there will be but I need to check with them for sure. So
18 if I do not, then when the Bailiff or the Clerk brings you
19 the verdict form, copy of the charge and all of the
20 exhibits that are into evidence in this case, that will be
21 your queue for two things to happen. One, I need the two
22 alternates to exit the jury room, come back out for
23 further instructions; and two, you can begin your
24 deliberations. Don't start yet. Okay. All 14 of you go
25 back, please.

1 (Whereupon, the jury was excused from the courtroom
2 at approximately 3:25 p.m.)

3 THE COURT: Does the State have any exceptions to the
4 Court's charge?

5 MS. HOFFMAN: Judge, just one slight thing. I
6 believe pursuant to State v. Logan, under direct and
7 circumstantial evidence, all of the circumstances is
8 suppose to be just the circumstances. But I think it is
9 minor enough that it is probably not a big issue.

10 THE COURT: That word needed to be taken out. Yes,
11 based upon a recent case that came about a year ago, and
12 apparently in the draft of direct and circumstantial
13 evidence, that was not. Let me look here.

14 MR. YARBOROUGH: Your Honor, I think it is minor
15 enough, don't need to draw attention to it.

16 THE COURT: Right. That recent case directed us to
17 take out the word, all, correct?

18 MS. HOFFMAN: Yes, sir.

19 THE COURT: All right. So just leave it alone?

20 MR. BROWN: I think at this point, yes sir.

21 MS. HOFFMAN: That's fine.

22 THE COURT: Thank you for bringing that to my
23 attention. It should, it was taken out but apparently a
24 draft that we used left it in. Okay. Does the Defense
25 have any exceptions?

1 MR. YARBOROUGH: No sir, Your Honor.

2 THE COURT: Thank you very much. We are off the
3 record, let's make sure we have got all the exhibits.
4 What I will do is on the copy I give to them I will mark
5 through that word.

6 (Whereupon, the Court Reporter and Attorneys went
7 over the exhibits.)

8 THE COURT: On the drugs, let me write on the
9 envelope, drug envelope, can request to see drug package
10 if you want to. Let's do this, will put, do not open
11 plastic bag.

12 (Whereupon, the alternates were excused from the
13 trial of the case.)

14 (Whereupon, the jury starts deliberations at 3:30
15 p.m.)

16 THE COURT: It is my understanding that the jury has
17 reached a verdict. Anything on the record before we
18 receive the verdict, from the State?

19 MR. BROWN: Not from the State.

20 THE COURT: From the Defense?

21 MR. YARBOROUGH: No sir, Your Honor.

22 THE COURT: Let's bring the jury out, please.

23 (Whereupon, the jury came into open court with a
24 verdict at approximately 4:07 p.m.)

25 THE COURT: Let the record reflect the jury is back

1 in. Mr. Foreman, without telling me what your verdict is,
2 have you reached a unanimous verdict in this case?

3 MR. FOREMAN: Yes, sir.

4 THE COURT: Okay. If you will hand the verdict form
5 to Mr. Hamby, please.

6 Madam Clerk, would you publish the verdict, please.

7 CLERK OF COURT: The State of South Carolina, County
8 of Greenwood. State of South Carolina versus Phillip
9 Franklin Derrick. As to indictment number 2018-GS-24-1624
10 and 1626. As to the charge of trafficking
11 methamphetamine, more than 28 grams. We, the jury,
12 unanimously find the Defendant, Phillip Franklin Derrick,
13 guilty.

14 As to the charge of possession of alprazolam. We,
15 the jury, unanimously find the Defendant, Phillip Franklin
16 Derrick, not guilty.

17 THE COURT: Ladies and gentlemen, if that is your
18 verdict in this case would you signify by raising your
19 right hand, please.

20 (Whereupon, all jurors raised their hand.)

21 THE COURT: Let the record reflect 12 hands have been
22 raised. Mr. Yarborough, do you wish individual polling to
23 be conducted of the jury?

24 MR. YARBOROUGH: No sir, Your Honor.

25 THE COURT: Okay. Thank you very much. Mr. Foreman

1 and ladies and gentlemen of the jury, let me thank you for
2 your jury service. The verdict that you reached in this
3 case does not matter to me. What matters to me is that a
4 jury performs its duties reasonable, efficiently,
5 consciously and I believe that you have done that. You
6 have also exercised a certain degree of patience with the
7 Court because we have left you stranded in two different
8 rooms through this trial. And, again, necessary for us to
9 do that. And I hope that you have enjoyed your experience
10 and that you have learned something or some things that
11 you may not have known before you showed up in this
12 courtroom on Monday. The card that you receive for
13 payment for your jury service will be loaded on Friday.
14 Don't expect a whole lot of compensation. State law does
15 not, unfortunately, provide for a lot of compensation for
16 jury service. But once again, I thank you. If you need a
17 work excuse then, Amber, you will be out in the hallway
18 with them or just come up to you.

19 CLERK OF COURT: They can come up to me.

20 THE COURT: Okay. If you need that. What I would
21 like to do is shake the hand of my jury and as you leave
22 out and hope to see you again real soon. You need to hang
23 around because you need to sign the back of the
24 indictments, Mr. Foreman, so if you will just hang around.

25 (Whereupon, the jury was excused from open court.)

1 THE COURT: Let's go on the record real quick,
2 please. In light of the fact that Mr. Derrick is not
3 present in the courtroom, of course, his sentence will be
4 sealed. A bench warrant to be issued and then whenever he
5 is picked up will be brought before the Court, does not
6 have to be brought before me. Typically are brought
7 before the sentencing Judge but that is not a requirement.
8 Any Judge can unseal the, can unseal the sentence.
9 Typically wait until the unsealing of the sentence to
10 accept any aggravation or mitigation. However, I will
11 need to know now the, any prior record which I believe
12 there is some prior record because we talked about that.
13 So if you can get that information to me, you may, Mr.
14 Yarborough, you may want to hang around and make sure that
15 you will agree with what they presented to me. But any
16 other aggravation or mitigation, just save it for
17 unsealing of the sentence.

18 MR. YARBOROUGH: And, Your Honor, just for the
19 record. I filed, I would make a motion, a directed
20 verdict not consistent with what the jury had done, there
21 wasn't enough evidence. Just to protect on all of my
22 motions.

23 THE COURT: Right. All of your motions are renewed.
24 And if you want to file any motions for a new trial I will
25 give you ten days to do that.

1 MR. YARBOROUGH: Okay. As long as everything is
2 protected on the record I don't see a need to do that.

3 THE COURT: Sure, you are protected.

4 MR. BROWN: Judge, the sentence is 7 but the range is
5 7 to 30 years and a \$50,000.00 dollar fine.

6 THE COURT: Right.

7 MR. BROWN: Back in 2001, giving false information.

8 THE COURT: I need to write this down. Okay, start
9 back again, Solicitor.

10 MR. BROWN: 2001, giving false information; 2002,
11 breach of peace; 2002, two counts of hit and run, property
12 damage; 2003, burglary second non-violent; public
13 disorderly conduct in '06; simple A&B in '06; assault and
14 battery second degree in '17.

15 THE COURT: Assault and battery, what, second did you
16 say?

17 MR. BROWN: Second degree, yes sir. Resisting arrest
18 in 2018; and what makes this a second offense, trafficking
19 second offense is in 2017, on September 5th of 2017 he
20 plead guilty to PWID methamphetamine first offense.
21 Carson Penny was the prosecutor at that time. So this is
22 a second offense trafficking, 28 to 100.

23 THE COURT: Okay.

24 MR. BROWN: And if you would like, do you want to see
25 a certified copy of that conviction?

1 THE COURT: No, I trust that you have provided me the
2 information. And you are aware of that, too, Mr.
3 Yarborough?

4 MR. YARBOROUGH: I am aware of it, Your Honor. I
5 will tell you this, is that he disputed it at some point
6 but I never could get to the bottom of it. And I showed
7 him that and he said somebody must have plead him when he
8 was, whatever.

9 THE COURT: Okay.

10 MR. BROWN: And, Judge, for whatever reason, that
11 conviction is not on his criminal history but we knew it
12 happened by looking at our records and then the Clerk had
13 it down there. Not quite certain why that is.

14 THE COURT: What you may want to do is, maybe, reach
15 out to SLED and make sure that they correct their records
16 to have that on there for any future.

17 MR. BROWN: Yes, sir. And, again, he has got about
18 six other sets of charges that are outstanding.

19 THE COURT: Okay. We will be dealing with those at
20 some time in the future. All right. Just for purposes of
21 the record, I commend all three attorneys for an excellent
22 job that you did in this case and I appreciate everyone's
23 hard work.

24 MR. BROWN: Thank you, Your Honor.

25 MR. YARBOROUGH: Thank you.

1 THE COURT: We are adjourned.

2 *** END OF REQUESTED TRANSCRIPT OF RECORD ***

1 CERTIFICATE OF REPORTER

2
3 State of South Carolina)
4)
5 County of Newberry)
6
7

8 I, Joy E. Holston, Official Court Reporter, do hereby
9 certify that the foregoing is a true, accurate and
10 complete transcript of record of the proceedings had and
11 evidence introduced in the trial of the captioned case,
12 relative to appeal, in the County of Greenwood, South
13 Carolina on August 1st through August 3rd, 2022.

14 I do further certify that I am neither of kin,
15 counsel nor interest to any party hereto.
16

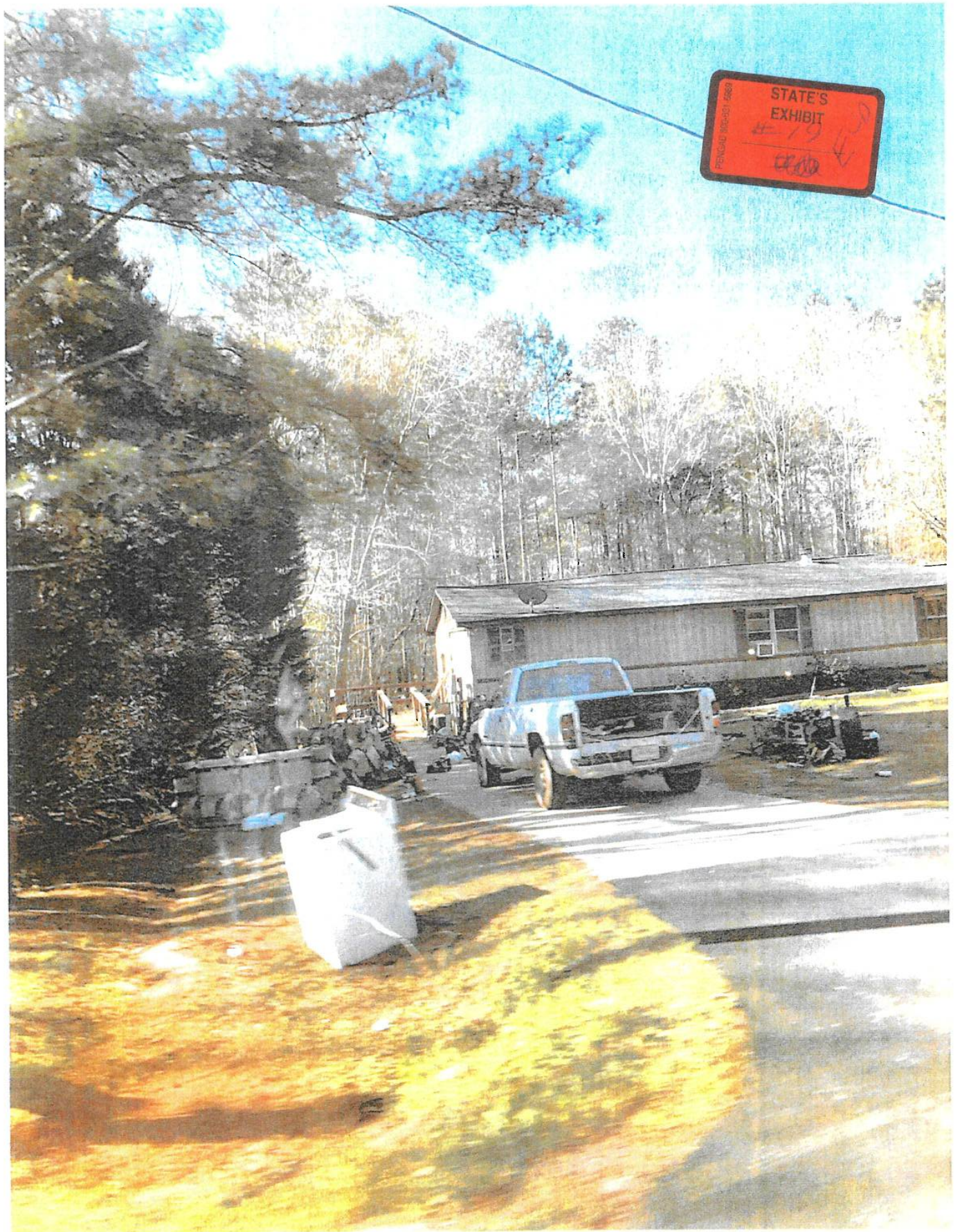
17 October 12, 2022
18

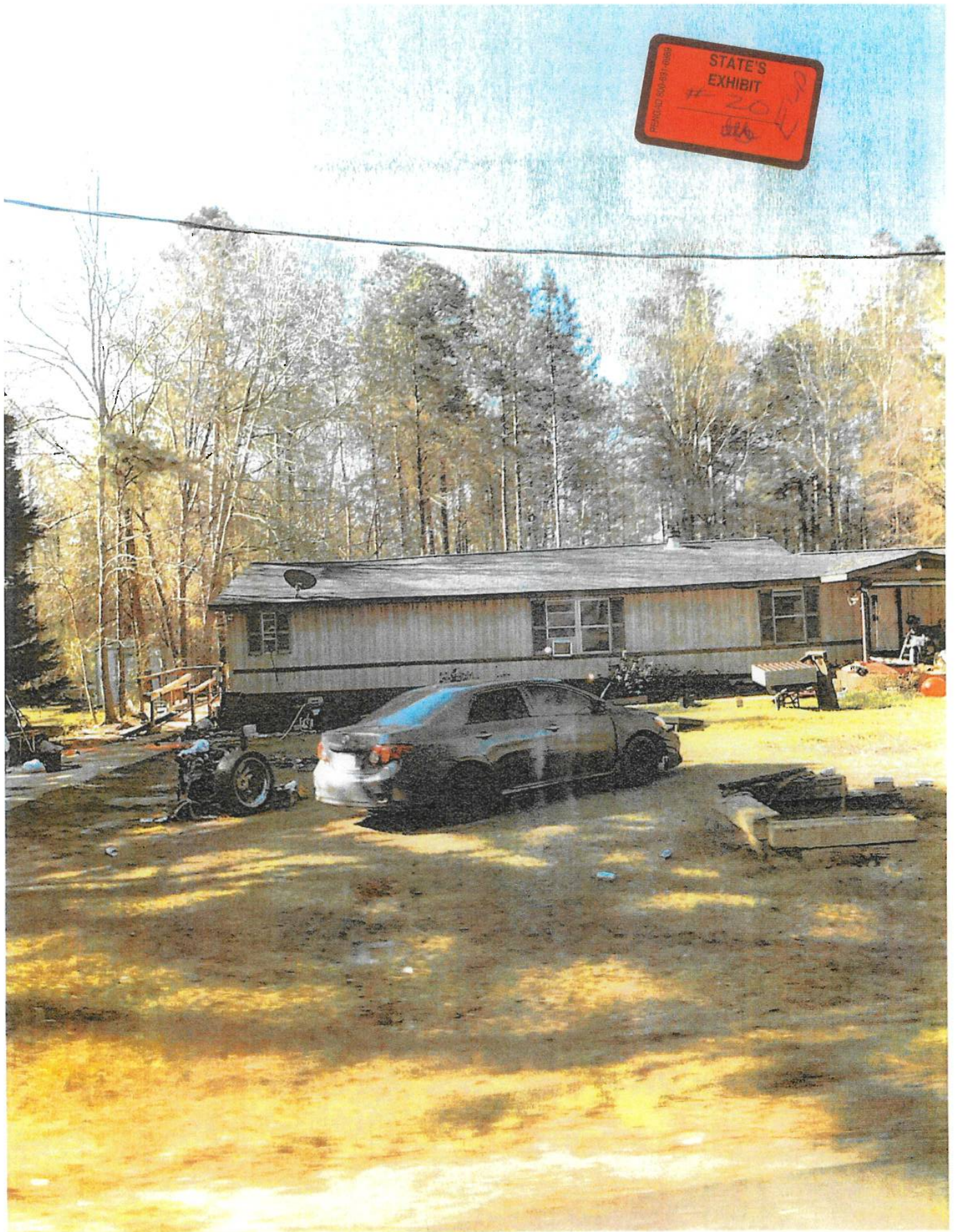
19 Joy E. Holston
20

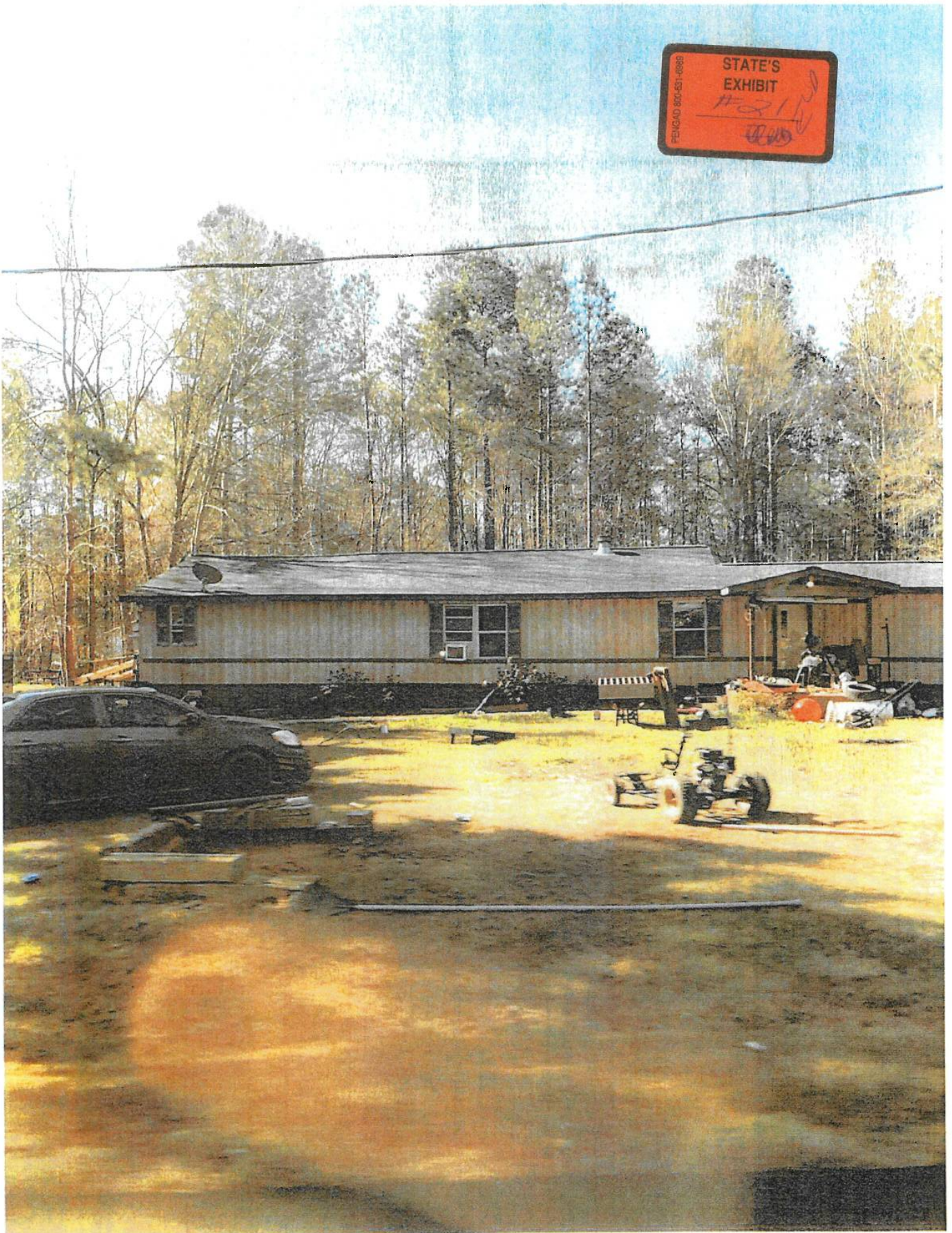
21 _____
22 Joy E. Holston, Court Reporter

23 My Commission expires: May 2, 2026
24
25















COPY

STATE OF SOUTH CAROLINA

County of Greenwood

SEARCH WARRANT

110 Barkwood Lane
Greenwood SC, 29646

Date April 6, 2018
Officer Any Lawful Officer

ORIGINAL

COPY

Return

I received the attached Search Warrant _____, 20 18, And have executed it as follows:
On 04-09, 20 18 at 1330 o'clock P M, I searched
(the person) described in the warrant and (the premises)

I left a copy of the warrant with

Name of the person searched or "at the place of search" with.

Together with a receipt for the items seized.

The following is an inventory of property taken pursuant to the warrant:

- A) 2 Clear bags With Crystal like Substances inside found by W. McClinton on Kitchen floor.
- B) Small Clear bag Containing green plant like Substance found by B. Louis on Kitchen Counter.
- C) Silver Container With baggies and drug Paf. inside found by B. Louis (Kitchen Counter)
- D) 12 Blue Pills Stamped R 031 found by B. Louis on Kitchen Counter
- E) 2 Sets of Scales found by B. Louis on Kitchen Counter
- F) Container With Several Clear baggies inside B. Louis on Kitchen Counter
- G) 1 Triple Beam Balance Scale found by B. Louis on Kitchen Counter.
- H) Bag Containing Gray Powder. B. Louis on Kitchen Counter.

This inventory was made in the presence of
AND

Philipph Derrick

I swear that this Inventory is a true and detailed account of all property taken by me on the warrant.

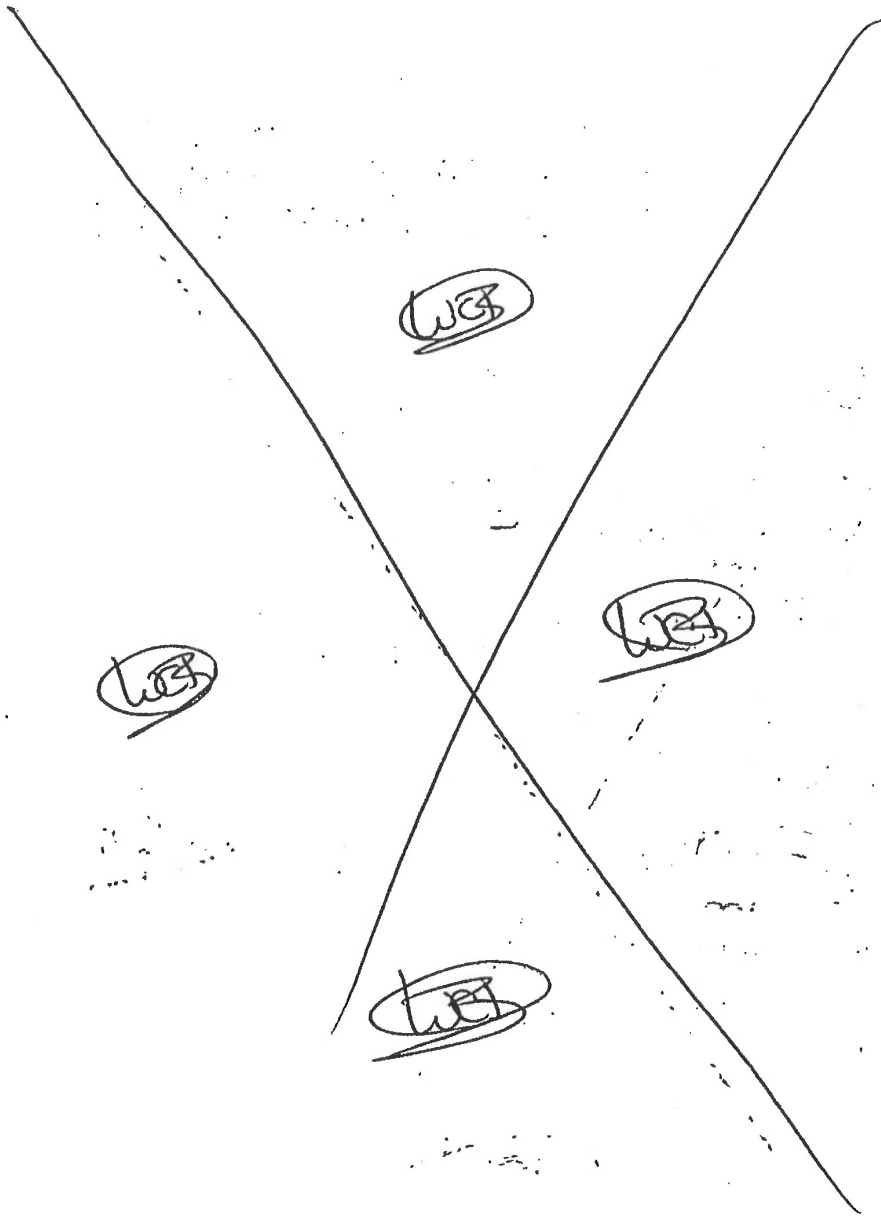
SWORN to before me this 13th
day of April, 2018

W. R. Martin (L.S.)
Signature of Judge

[Signature]
(Signature of Officer Executing Warrant)

- I) Blue Container With Small Clear bags inside found by W. McClinton in Kitchen drawer.
- J) Noel Peace Love box Containing a Spoon + Knife found by W. McClinton Cabinet above bed.
- K) 1 New Cell Phone found by W. McClinton on bed
- L) 1 B. Can found by W. McClinton on bed

n) 1 Silver LG Cell Phone found on bed
by W. McClinton.



STATE OF SOUTH CAROLINA }
COUNTY OF GREENWOOD

AFFIDAVIT

COPY

Personally appeared before me, one AGENT BRYAN LOUIS
who, being duly sworn, says that there is probable cause to believe that certain property subject to seizure under
provisions of Section 17-13-140, 1976 Code of Laws of South Carolina, as amended, is located on the following premises
in this County:

DESCRIPTION OF PROPERTY SOUGHT

AN TYPE SUBSTANCE BELIEVED TO BE METHAMPHETAMINES AND ANY OTHER CONTROLLED SUBSTANCE IN
VIOLATION OF SECTIONS 44-53-370 AND 44-53-375 OF THE SC. CODE OF LAWS. ANY LEDGERS, RECORDS, SCALES,
ELECTRONIC STORAGE MEDIUM, AND PARAPHERNALIA USED IN THE MANUFACTURE, DELIVERY, OR SALE OF
THE CONTROLLED SUBSTANCE LISTED ABOVE.

DESCRIPTION OF PREMISES (PERSON, PLACE OR THING)
TO BE SEARCHED

SEE EXHIBIT A

REASON FOR AFFIANT'S BELIEF THAT THE
PROPERTY SOUGHT IS ON THE SUBJECT PREMISES

SEE ATTACHED AFFIDAVIT.

Sworn to and Subscribed before me
This 6th day of April, 2018

W. R. Martin
Signature of Judge (L.S.)

[Signature]
Affiant
528 Edgefield Street
Greenwood South Carolina 29646
864.942.8600

STATE OF SOUTH CAROLINA

} Search Warrant

COUNTY OF GREENWOOD

Form approved by
S.C. Attorney General
Section 17-13-160
March 15, 1978

TO ANY BONDED LAW ENFORCEMENT OFFICER OF THIS STATE OR COUNTY OR OF THE MUNICIPALITY OF
GREENWOOD COUNTY

It Appearing from the attached affidavit that there are reasonable grounds to believe that certain property subject to seizure under provisions of Section 17-13-140, 1976 Code of Laws of South Carolina, as amended, is located on the following premises:

DESCRIPTION OF PREMISES (PERSON, PLACE OR THING)
TO BE SEARCHED

SEE EXHIBIT A

Now, therefore, you are hereby authorized to search the subject premises described below, and to seize such property if found:

DESCRIPTION OF PROPERTY

AN TYPE SUBSTANCE BELIEVED TO BE METHAMPHETAMINES AND ANY OTHER CONTROLLED SUBSTANCE IN VIOLATION OF SECTIONS 44-53-370 AND 44-53-375 OF THE SC. CODE OF LAWS. ANY LEDGERS, RECORDS, SCALES, ELECTRONIC STORAGE MEDIUM, AND PARAPHERNALIA USED IN THE MANUFACTURE, DELIVERY, OR SALE OF THE CONTROLLED SUBSTANCE LISTED ABOVE.

This Search Warrant shall not be valid for more than ten days from the date of issuance.

A written inventory of all property seized pursuant to this Search Warrant shall be made to
The Honorable WALTER RUTLEDGE MARTIN
within ten days from the date of this warrant, such inventory to be signed by the officer executing this warrant, and a copy of such inventory shall be furnished to the person whose premises are searched if demand for such copy is made.

A copy of this Search Warrant shall be delivered to the person in charge of the premises searched at the time of such search if practicable, and, if not, to such persona as soon thereafter as is practicable; in the event the identity of the person in charge is not known or if such person cannot be found after reasonable diligence in attempting to locate the person, a copy shall be attached to a prominent place on such premises.

Greenwood, S.C.

April 6, 2018

SCCA/513 (3-78)

W. R. Martin

Signature of Judge

(L.S.)

COPY

****Also see attached GIS image****

Directions from 528 Edgefield Street are as follows; start out north on Edgefield St towards Oak Ave, turn right onto Maxwell Ave, turn left onto Beaudrot Ave, turn left onto Main Street, take 1st right onto Grace Street, turn right onto Reynolds Ave, turn right onto Old Brickyard Road, take 1st right onto Evans Pond Rd, turn slight left onto S. Emerald Rd, take left onto Emerald Rd, turn right onto Hwy 246 S, take 2nd left onto Calhoun Rd E, turn right onto Barkwood Lane. Target location is on the right.

In my experience as a law enforcement officer, drug dealers keep drugs, money, guns, scales, and other paraphernalia inside their residence and vehicles. It is reasonable to believe these items will be found inside the residence, vehicles, campers, curtilage, or outer buildings.

This the 6th day of April, 2018

M. R. Martin

(L.S.)

Affiant

AFFIDAVIT

I, Bryan Louis, being duly sworn, depose and say that:

I am a certified law enforcement officer in South Carolina, employed by the Greenwood County Sheriff's Office. I have worked at the Greenwood County Sheriff's Office for approximately 8 years and work in the Greenwood Drug Enforcement Unit where I investigate drug crimes. I have experience working drug related cases and I am authorized to make searches and seizures and have completed a Clandestine Laboratory Safety Certification Course.

Within the past 72 hours, a Documented Reliable Confidential Informant, working with the Greenwood County DEU, purchased a quantity of a crystal like substance, which tested positive for Meth, from Jamie Couey, in a camper behind the residence located at 110 Barkwood Lane, in the County of Greenwood, SC. The informant was equipped with audio/ video recording capabilities and made contact with Couey who exchanged a clear plastic bag containing the crystal like substance for recorded U.S Currency. The informant then left the residence and made contact with Agents and relinquished the drugs. Couey has been arrested at this residence in the past and drug paraphernalia has been located inside the residence.

Based on the above affidavit, this affiant believes probable cause exists for issuance of a search warrant.

Sworn to and Subscribed before me

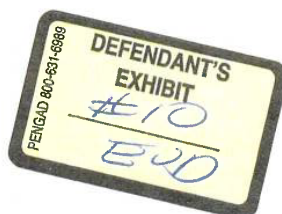
This April 6, 2018

W. R. Martin (L.S.)

Signature of Judge

[Signature]
Affiant

STATE OF SOUTH CAROLINA)
COUNTY OF GREENWOOD)



GCSO CASE#



VOLUNTARY STATEMENT

DATE 4-10-18 TIME 0845 PLACE GLDC

I Tammy Covey, AM 37 YEARS OF AGE. MY DOB IS [REDACTED]

MY PRESENT ADDRESS IS 110 Bankwood Lane. I can READ

AND WRITE AND COMPLETED THE _____ GRADE IN SCHOOL. I AM GIVING THIS

STATEMENT TO Bryan Louis WHO HAS IDENTIFIED HIM/HERSELF AS

A Agent, AND HAS DULY WARNED AND ADVISED ME:

1. I HAVE THE RIGHT TO REMAIN SILENT.
2. ANYTHING I SAY CAN AND WILL BE USED AGAINST ME IN COURT OF LAW.
3. I HAVE THE RIGHT TO TALK TO A LAWYER AND HAVE HIM PRESENT WITH ME WHILE I'M BEING QUESTIONED.
4. IF I CANNOT AFFORD A LAWYER, ONE WILL BE APPOINTED TO REPRESENT ME BEFORE ANY QUESTIONING, IF I WISH.
5. I CAN DECIDE AT ANY TIME TO EXERCISE THESE RIGHTS AND NOT ANSWER ANY QUESTIONS OR MAKE ANY STATEMENTS.
6. I UNDERSTAND MY RIGHTS.
7. HAVING MY RIGHTS IN MIND, I AM WAIVING MY RIGHTS AND GIVING THIS STATEMENT.

ALL the drugs and narcotics located inside the car
at 110 Bankwood Lane belonged to me and not my Brother
Phillip Derrick. I accept full responsibility for all items found
by Dew on 4-9-18. I am unable to sign my name due to
a hand injury, but will sign with an X.

WITNESS: [Signature] PERSON GIVING STATEMENT: [Signature]

[Signature]
wescove

ARREST WARRANT

2018A2410200360

STATE OF SOUTH CAROLINA
County/ ☒ Municipality of
Greenwood

Greenwood

THE STATE

against

Jamie Lynn Couey

Address: 110 Barkwood Ln

Greenwood, SC 29646-9531

Phone: (864) 872-8405 SSN: _____

Sex: F Race: W Height: 5 4 Weight: 130

DL State: SC DL #: _____

DOB: _____ Agency ORI #: SC0240000

Prosecuting Agency: Greenwood County Sheriff

Prosecuting Officer: Bryan M Louis - 0335

Offense: Drugs / Possession of a schedule IV controlled

substance - 1st offense

Offense Code: 0179

Code/Ordinance Sec: 44-53-0370(d)(2)

This warrant is CERTIFIED FOR SERVICE in the

☐ County/ ☐ Municipality of

The accused

is to be arrested and brought before me to be

dealt with according to the law.

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to

defendant on

4-10-18

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

General Sessions

528 Monument Street

Room 114

Greenwood, SC 296462623

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STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Greenwood

Personally appeared before me the affiant

being duly sworn deposes and says that defendant

did within this county and state on or about

State of South Carolina (or ordinance of

in the following particulars:

DESCRIPTION OF OFFENSE: Drugs / Possession of a schedule IV controlled substance - 1st offense

I further state that there is probable cause to believe that the defendant named above did commit

the crime set forth and that probable cause is based on the following facts:

In that on April 9, 2018, Jamie Couey was in possession of 3 clear plastic bags which tested positive for Meth, and had weights of

2.43 grams, 1.75 grams, and 26.3 grams, 1 clear plastic bag containing marijuana, and 1 clear plastic bag containing 12 pills scored

R031, identified as Alprazolam, a Schedule IV Controlled Substance. These items were located in a camper on the property at 110

Barkwood Lane, in the County of Greenwood after DEU executed a search warrant at the residence. Couey has one prior Meth

conviction.

Signature of Affiant

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Greenwood

Affiant's Address

528 Edgefield Street

Greenwood, SC 29646-

Affiant's Telephone

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that

on or about 4/9/2018

defendant Jamie Lynn Couey

did violate the criminal laws of the State of South Carolina (or ordinance of

☒ County/ ☐ Municipality of Greenwood

) as set forth below:

DESCRIPTION OF OFFENSE: Drugs / Possession of a schedule IV controlled substance - 1st offense

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or

her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as

soon thereafter as is practicable

Sworn to and subscribed before me

on 4/10/2018

Signature of Issuing Judge

Belinda Yvonne Johnson

Judge Code: 7251

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Form Approved by
S.C. Attorney General
April 21, 2003
SCCA 518

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AFFIDAVIT

who

violate the criminal laws of the

Greenwood

County/ ☐ Municipality of

Greenwood

DESCRIPTION OF OFFENSE: Drugs / Possession of a schedule IV controlled substance - 1st offense

I further state that there is probable cause to believe that the defendant named above did commit

the crime set forth and that probable cause is based on the following facts:

In that on April 9, 2018, Jamie Couey was in possession of 3 clear plastic bags which tested positive for Meth, and had weights of

2.43 grams, 1.75 grams, and 26.3 grams, 1 clear plastic bag containing marijuana, and 1 clear plastic bag containing 12 pills scored

R031, identified as Alprazolam, a Schedule IV Controlled Substance. These items were located in a camper on the property at 110

Barkwood Lane, in the County of Greenwood after DEU executed a search warrant at the residence. Couey has one prior Meth

conviction.

Signature of Affiant

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Greenwood

Affiant's Address

528 Edgefield Street

Greenwood, SC 29646-

Affiant's Telephone

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that

on or about 4/9/2018

defendant Jamie Lynn Couey

did violate the criminal laws of the State of South Carolina (or ordinance of

☒ County/ ☐ Municipality of Greenwood

) as set forth below:

DESCRIPTION OF OFFENSE: Drugs / Possession of a schedule IV controlled substance - 1st offense

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or

her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as

soon thereafter as is practicable

Sworn to and subscribed before me

on 4/10/2018

Signature of Issuing Judge

Belinda Yvonne Johnson

Judge Code: 7251

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ARREST WARRANT

2018A2410200362

STATE OF SOUTH CAROLINA
☒ County/ ☐ Municipality of
GreenwoodTHE STATE
against
18-9923

Phillip Franklin Derrick

Address: 110 Barkwood Ln

Greenwood, SC 29646-9531

Phone: (864)923-3598 SSN: _____

Sex: M Race: W Height: 6 2 Weight: 190

DL State: SC DL #: _____

DOB: _____ Agency ORI #: SC0240000

Prosecuting Agency: Greenwood County Sheriff

Prosecuting Officer: Bryan M Louis - 0335

Offense: Drugs / Trafficking in ice, crack or crack - 28 g or

more, but less than 100 g -

Offense Code: 0389

Code/Ordinance Sec: 44-53-0375(C)(2)(b)

This warrant is CERTIFIED FOR SERVICE in the

☐ County/ ☐ Municipality of

The accused

is to be arrested and brought before me to be

dealt with according to the law.

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to

defendant

on

Phillip Derrick

4-10-18

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

General Sessions

528 Monument Street

Room 114

Greenwood, SC 29646-623

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STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Greenwood

Personally appeared before me the affiant

Bryan M Louis

who

being duly sworn deposes and says that defendant

Phillip Franklin Derrick

did within this county and state on or about

4/9/2018

violate the criminal laws of the

State of South Carolina (or ordinance of

☒ County/ ☐ Municipality of

Greenwood

in the following particulars:

DESCRIPTION OF OFFENSE: Drugs / Trafficking in ice, crack or crack - 28 g or more, but less than 100 g -

I further state that there is probable cause to believe that the defendant named above did commit

the crime set forth and that probable cause is based on the following facts:

In that on April 9, 2018, Phillip Derrick was in possession of 3 clear plastic bags which tested positive for Meth, and had weights of

2.43 grams, 1.75 grams, and 26.3 grams, 1 clear plastic bag containing marijuana, and 1 clear plastic bag containing 12 pills scored

R031, identified as Alprazolam, a Schedule IV Controlled Substance. These items were located in a camper on the property at 110

Barkwood Lane, in the County of Greenwood after DEU executed a search warrant at the residence. Derrick resisted arrest while on

scene and was tased as a result.

Signature of Affiant

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Greenwood

Affiant's Address

528 Edgefield Street

Greenwood, SC 29646-

Affiant's Telephone

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that

on or about 4/9/2018

defendant

Phillip Franklin Derrick

did violate the criminal laws of the State of South Carolina (or ordinance of

☒ County/ ☐ Municipality of

Greenwood

) as set forth below:

DESCRIPTION OF OFFENSE: Drugs / Trafficking in ice, crack or crack - 28 g or more, but less than 100 g - 2nd offense

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or

her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as

soon thereafter as is practicable

Sworn to and subscribed before me

on 4/10/2018

Signature of Issuing Judge

(L.S.)

Belinda Y'vonne Johnson

Judge Code: 7251

Issuing Court: ☒ Magistrate ☐ Municipal ☐ Circuit

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Form Approved by

S.C. Attorney General

JULY 1, 2003

SCCA 518

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ARREST WARRANT

2018A2410200362

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Greenwood

18-9923

THE STATE
against

Phillip Franklin Derrick

Address: 110 Barkwood Ln

Greenwood, SC 29646-9531

Phone: (864)923-3598 SSN: [REDACTED]

Sex: M Race: W Height: 6 2 Weight: 190

DL State: SC DL #: [REDACTED]

DOB: [REDACTED] Agency ORI #: SC0240000

Prosecuting Agency: Greenwood County Sheriff

Prosecuting Officer: Bryan M Louis - 0335

Offense: Drugs / Trafficking in ice, crack or crack - 28 g or

more, but less than 100 g - 2nd offense

Offense Code: 0389

Code/Ordinance Sec: 44-53-0375(C)(2)(b)

This warrant is CERTIFIED FOR SERVICE in the

☐ County/ ☐ Municipality of

The accused

is to be arrested and brought before me to be

dealt with according to the law.

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to

defendant on

Phillip Derrick 4-10-18

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

General Sessions

528 Monument Street

Room 114

Greenwood, SC 296462623

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Greenwood

Personally appeared before me the affiant Bryan M Louis

being duly sworn deposes and says that defendant Phillip Franklin Derrick

did within this county and state on or about 4/9/2018

State of South Carolina (or ordinance of ☒ County/ ☐ Municipality of

Greenwood

violate the criminal laws of the

DESCRIPTION OF OFFENSE: Drugs / Trafficking in ice, crack or crack - 28 g or more, but less than 100 g - 2nd offense

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:

In that on April 9, 2018, Phillip Derrick was in possession of 3 clear plastic bags which tested positive for Meth, and had weights of 2.43 grams, 1.75 grams, and 26.3 grams, 1 clear plastic bag containing marijuana, and 1 clear plastic bag containing 12 pills scored R031, identified as Alprazolam, a Schedule IV Controlled Substance. These items were located in a camper on the property at 110 Barkwood Lane, in the County of Greenwood after DEU executed a search warrant at the residence. Derrick resisted arrest while on scene and was tased as a result.

Signature of Affiant

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Greenwood

Affiant's Address 528 Edgefield Street

Greenwood, SC 29646-

Affiant's Telephone

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that

on or about 4/9/2018 defendant Phillip Franklin Derrick

did violate the criminal laws of the State of South Carolina (or ordinance of

☒ County/ ☐ Municipality of Greenwood) as set forth below:

DESCRIPTION OF OFFENSE: Drugs / Trafficking in ice, crack or crack - 28 g or more, but less than 100 g - 2nd offense

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable

Sworn to and subscribed before me

on 4/10/2018

Signature of Issuing Judge (L.S.)

Belinda Yvonne Johnson

Judge Code: 7251

Issuing Court: ☒ Magistrate ☐ Municipal ☐ Circuit

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AFFIDAVIT

Form Approved by
S.C. Attorney General
March 21, 2003
SCGA 516

ARREST WARRANT

2018A2410200363

STATE OF SOUTH CAROLINA
☒ County/ ☐ Municipality of
Greenwood

18-9923

THE STATE

against

Phillip Franklin Derrick

Address: 110 Barkwood Ln
Greenwood, SC 29646-9531

Phone: (864)923-3598 SSN: [REDACTED]

Sex: M Race: W Height: 6 2 Weight: 190

DL State: SC DL #: [REDACTED]

DOB: [REDACTED] Agency ORI #: SC0240000

Prosecuting Agency: Greenwood County Sheriff

Prosecuting Officer: Bryan M Louis - 0335

Offense: Drugs / Poss. of 28g (1 oz) or less of marijuana or
10g or less of hash - 1st offense

Offense Code: 0659

Code/Ordinance Sec: 44-53-0370(d)(4)

This warrant is CERTIFIED FOR SERVICE in the
☐ County/ ☐ Municipality ofThe accused
is to be arrested and brought before me to be
dealt with according to the law.

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to
defendant Phillip Derrick
on 4-10-18

RETURN WARRANT TO:

General Sessions
528 Monument Street
Room 114
Greenwood, SC 296462623

ORIGINAL

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STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of
GreenwoodPersonally appeared before me the affiant Bryan M Louis whobeing duly sworn deposes and says that defendant Phillip Franklin Derrickdid within this county and state on or about 4/9/2018 violate the criminal laws of the
State of South Carolina (or ordinance of ☒ County/ ☐ Municipality of Greenwood)
in the following particulars:

DESCRIPTION OF OFFENSE: Drugs / Poss. of 28g (1 oz) or less of marijuana or 10g or less of hash - 1st offense

I further state that there is probable cause to believe that the defendant named above did commit
the crime set forth and that probable cause is based on the following facts:In that on April 9, 2018, Phillip Derrick was in possession of 3 clear plastic bags which tested positive for Meth, and had weights of
2.43 grams, 1.75 grams, and 26.3 grams, 1 clear plastic bag containing marijuana, and 1 clear plastic bag containing 12 pills scored
R031, identified as Alprazolam, a Schedule IV Controlled Substance. These items were located in a camper on the property at 110
Barkwood Lane, in the County of Greenwood after DEU executed a search warrant at the residence. Derrick resisted arrest while on
scene and was tased as a result.

Signature of Affiant

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Greenwood

Affiant's Address 528 Edgefield StreetGreenwood, SC 29646-

Affiant's Telephone

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that

on or about 4/9/2018 defendant Phillip Franklin Derrick

did violate the criminal laws of the State of South Carolina (or ordinance of

☒ County/ ☐ Municipality of Greenwood) as set forth below:

DESCRIPTION OF OFFENSE: Drugs / Poss. of 28g (1 oz) or less of marijuana or 10g or less of hash - 1st offense

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or
her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as
soon thereafter as is practicable
Sworn to and subscribed before meon 4/10/2018Belinda Yvonne Johnson (L.S.)
Signature of Issuing Judge

Belinda Yvonne Johnson

Judge Code: 7251

Judge's Telephone (864)942-8655Judge's Address Greenwood County Courthouse
Greenwood, SC 29646-2634Issuing Court: ☒ Magistrate ☐ Municipal ☐ Circuit

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AFFIDAVIT

Form Approved by
S.C. Administrative
April 21, 2003
SCCA 518

ARREST WARRANT

2018A2410200364

STATE OF SOUTH CAROLINA
☒ County/ ☐ Municipality of
GreenwoodTHE STATE
against

Phillip Franklin Derrick

Address: 110 Barkwood Ln
Greenwood, SC 29646-9531Phone: (864)923-3598 SSN: [REDACTED]
Sex: M Race: W Height: 6 2 Weight: 190

DL State: SC DL #: [REDACTED] Agency ORI #: SC0240000

Prosecuting Agency: Greenwood County Sheriff

Prosecuting Officer: Bryan M Louis - 0335

Offense: Drugs / Possession of schedule controlled substance- 1st offense

Offense Code: 0179
Code/Ordinance Sec: 44-53-0370(d)(2)This warrant is CERTIFIED FOR SERVICE in the
☐ County/ ☐ Municipality ofThe accused
is to be arrested and brought before me to be
dealt with according to the law.(L.S.)
Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to
defendant on Phillip DerrickRETURN WARRANT TO:
General Sessions
528 Monument Street
Room 114
Greenwood, SC 296462623

Signature of Constable/Deputy Constable Officer

ORIGINAL ORIGINAL

STATE OF SOUTH CAROLINA
☒ County/ ☐ Municipality of
GreenwoodPersonally appeared before me the affiant Bryan M Louis who
being duly sworn deposes and says that defendant Phillip Franklin Derrick
did within this county and state on or about 4/9/2018 violate the criminal laws of the
State of South Carolina (or ordinance of ☒ County/ ☐ Municipality of Greenwood)
in the following particulars:

DESCRIPTION OF OFFENSE: Drugs / Possession of schedule controlled substance- 1st offense

I further state that there is probable cause to believe that the defendant named above did commit
the crime set forth and that probable cause is based on the following facts:In that on April 9, 2018, Phillip Derrick was in possession of 3 clear plastic bags which tested positive for Meth, and had weights of
2.43 grams, 1.75 grams, and 26.3 grams, 1 clear plastic bag containing marijuana, and 1 clear plastic bag containing 12 pills scored
R031, identified as Alprazolam, a Schedule IV Controlled Substance. These items were located in a camper on the property at 110
Barkwood Lane, in the County of Greenwood after DEU executed a search warrant at the residence. Derrick resisted arrest while on
scene and was tased as a result.

Signature of Affiant

STATE OF SOUTH CAROLINA
☒ County/ ☐ Municipality of
GreenwoodAffiant's Address 528 Edgefield Street
Greenwood, SC 29646-

Affiant's Telephone

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that

on or about 4/9/2018 defendant Phillip Franklin Derrick
did violate the criminal laws of the State of South Carolina (or ordinance of
☒ County/ ☐ Municipality of Greenwood) as set forth below:

DESCRIPTION OF OFFENSE: Drugs / Possession of schedule controlled substance- 1st offense

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or
her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as
soon thereafter as is practicable
Sworn to and subscribed before me
on 4/10/2018Belinda Yvonne Johnson (L.S.)
Signature of Issuing Judge

Judge Code: 7251

Judge's Address Greenwood County Courthouse
Greenwood, SC 29646-2634

Judge's Telephone (864)942-8655

Issuing Court: ☒ Magistrate ☐ Municipal ☐ Circuit

ORIGINAL ORIGINAL ORIGINAL

Form Approved by
SC Judicial Branch
April 21, 2003
SCCA 518ORIGINAL
AFFIDAVIT

ATTEST A TRUE COPY
Chastity Copeland
CHASTITY COPELAND
CCCP AND GS
GREENWOOD COUNTY
S. C.

WITNESSES

Bryan Louis
Greenwood County Sheriff's Department

WARRANT NUMBER

Direct Indictment
TRUE BILL

Julie Williams

Foreman of the Grand Jury

Date: *9-28-18*

VERDICT

Guilty

Samuel D. Sellers

Foreman

8/3/22

THE STATE OF SOUTH CAROLINA

COUNTY OF GREENWOOD

COURT OF GENERAL SESSIONS

September Term, 2018

Indictment #2018GS24- *1624*

THE STATE

vs.

PHILLIP FRANKLIN DERRICK

INDICTMENT FOR

Trafficking Methamphetamine

SC Code: § 44-53-375(C)

CDR: 0389

I hereby waive presentment to the Grand Jury.

Defendant

Witness:

ATTEST A TRUE COPY
CHASTITY L. BROWN AND
CCCP AND GS
GREENWOOD COUNTY
S.C.

THE STATE OF SOUTH CAROLINA
COUNTY OF GREENWOOD

INDICTMENT FOR

Trafficking Methamphetamine..
§44-53-375(C)

At a Court of General Sessions, convened on the 28th day of September, 2018, the Grand Jurors of Greenwood County present upon their oath:

The defendant, Phillip Franklin Derrick, did on or about April 9, 2018, in Greenwood County, South Carolina, sell, manufacture, deliver, purchase, or bring into this State, or did provide financial assistance or otherwise aid, abet, attempt, or conspire to sell, manufacture, deliver, purchase, or bring into this State, or was in actual or constructive possession or attempted to become in actual or constructive possession of twenty-eight (28) grams or more of methamphetamine, in violation of 44-53-375 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 cases made and provided.



M. Wade Downtin
Assistant Solicitor

ATTEST A TRUE COPY
Chastity Copeland
CHASTITY COPELAND
CCCP AND GS
GREENWOOD COUNTY
S. C.

WITNESSES

Bryan Louis
Greenwood County Sheriff's Department

WARRANT NUMBER

Direct Indictment
TRUE BILL

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INDICTMENT FOR

Trafficking Methamphetamine

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CDR: 0389

I hereby waive presentment to the Grand Jury.

Defendant

Witness:

ATTEST A TRUE COPY
CHASTITY L. COLEMAN
CLERK OF COURT
GREENWOOD COUNTY
S.C.

THE STATE OF SOUTH CAROLINA
COUNTY OF GREENWOOD

INDICTMENT FOR

Trafficking Methamphetamine
§44-53-375(C)

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Against the peace and dignity of the State, and contrary to the statute in such cases made and provided.



M. Wade Downtin
Assistant Solicitor

STATE OF SOUTH CAROLINA

COUNTY OF GREENWOOD

STATE

VS.

PHILLIP FRANKLIN DERRICK

AKA: PHILLIP FRANKLIN DERRICK

Race: White Sex: M Age: 39

DOB: [REDACTED] SS#: [REDACTED]

Address: 2215 Katway

City, State, Zip: Greenwood, SC 29646

DL#* [REDACTED] SID# [REDACTED]

ATTEST A TRUE COPY
Chastity Copeland
CHASTITY COPELAND
CCCP AND GS
GREENWOOD COUNTY
S. C.

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2018GS24-1624

A/W#: DIRECT INDICTMENT

Date of Offense: 04/09/2018

S.C. Code §: 44-53-375(C)

CDR Code #: 0389

SENTENCE SHEET

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the above indictment comes now the Defendant who was

☒ CONVICTED OF or ☐ PLEADS

TO: Trafficking Methamphetamine 28g or more 2nd Offense ; 7-30 yrs

In violation of § 44-53-375(C) of the S.C. Code of Laws, bearing CDR Code # 0389

☐ 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]
C. Yates Brown, Jr.,
Deputy Solicitor

78607

SC Bar #

Defendant

Attorney for Defendant

10271

SC Bar #

WHEREFORE, the Defendant is committed to the ☒ State Department of Correction ☐ County Detention Center,

for a determinate term of 15 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.

151 days/months To Be Determined at Unsealing of Sentence
☐ 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.

INDICTMENT/CASE#: 2018GS24-1624

ATTEST A TRUE COPY
Chastity Copeland
CHASTITY COPELAND
PTUP after
CCCP 10 GS
GREENWOOD COUNTY
S. C.

☐ **PTUP** after _____ months/years

☐ 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)

§14-1-211 (A)(2)(DUI Surcharge)

§56-5-2995 (DUI Assessment)

§56-1-286 (DUI Breath Test)

§14-1-212 (Law Enforce, Funding)

§14-1-213 (Drug Court Surcharge)

§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)

§50-21-114 (BUI Breath Test Fee)

§56-5-2942(J) (Vehicle Assessment)

3% to County (if paid in installments)

☐ Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees

☐ § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund

	\$
	\$
\$100	\$100
\$100	\$
\$12	\$
\$25	\$
\$25	\$25
\$150	\$150
\$41	\$
\$50	\$
\$40/ea	\$
TBD	\$8.25
\$500	\$
TBD	\$
TOTAL	\$283.25

Clerk of Court/Deputy Clerk:
Court Reporter:
SCCA/217 (07/2021)

Chastity Copeland
Joy Holston (trial)
Lish Amick
(sentencing)

Presiding Judge:

Judge Code:

Sentence Date:

sentencing Hearing 8/11/22

RULE 210(g) CERTIFICATE OF COUNSEL

Undersigned Counsel hereby certifies that the Record on Appeal contains all material proposed to be included by any of the parties and not any other material.

s/ Lauren Carole Hobbis

Lauren Carole Hobbis

South Carolina Bar No. 103190

William G. Yarborough III, Attorney at Law, LLC

308 West Stone Avenue

Greenville, South Carolina 29609

(864) 331-1612 | F: (864) 271-0711

COUNSEL FOR APPELLANT