

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM YORK COUNTY
General Sessions Court
Thomas L. Hughston, Jr., Circuit Court Judge

Case No. 2016-GS-46-00756
Case No. 2016-GS-46-00757
Case No. 2016-GS-46-00758
Case No. 2016-GS-46-00770

Appellate Case No. 2017-002445

RECEIVED
FEB 11 2019
SC Court of Appeals

The State,

Respondent,

v.

Shawn Roseberry Bisnauth,

Appellant.

RECORD ON APPEAL

Alan M. Wilson
Attorney General

David A. Spencer
Senior Assistant Attorney General
S.C. Bar No. 68571

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S.C. Bar No. 8951

ATTORNEYS FOR APPELLANT

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ATTORNEYS FOR APPELLANT

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WITNESSES

DEU

Witnessing Officer: T. Hager

ARREST WARRANT NUMBER

2015A4610201673

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury
Date: 3-24-16

VERDICT

Guilty

Foreperson of Grand Jury
Date:

DOCKET NO. 2016-GS46- 00756

The State of South Carolina

County of York

COURT OF GENERAL SESSIONS

MARCH 24, TERM 2016

THE STATE

VS.

SHAWN ROSEBERRY BISNAUTH

INDICTMENT FOR

**POSSESSION WITH INTENT TO
DISTRIBUTE COCAINE**

SC Code: § 44-53-370

CDR Code: 0185

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I
hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

STATE OF SOUTH CAROLINA
COUNTY OF YORK

INDICTMENT

RECEIVED

NOV 27 2017

SC Court of Appeals

At a Court of General Sessions, convened on March 24, 2016, the Grand Jurors of York County present upon their oath:

POSSESSION WITH INTENT TO DISTRIBUTE COCAINE

The defendant, Shawn Roseberry Bisnauth, did on or about October 15, 2015, in York County, South Carolina, manufacture, distribute, dispense, deliver, purchase, or otherwise aid, abet, attempt, or conspire to manufacture, distribute, dispense, deliver, or purchase, or possess with the intent to manufacture, distribute, dispense, deliver, or purchase Cocaine in violation of the provisions of Section 44-53-370. All in violation of 44-53-370 of the South Carolina Code of Laws (1976) as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


MARINA B. HAMILTON
ASSISTANT SOLICITOR

CERTIFIED TRUE COPY
2017 NOV 21 AM 8:32
DAVID HAMILTON
CLERK OF COURT
YORK COUNTY, SC

WITNESSES

DEU

Witnessing Officer: T. Hager

ARREST WARRANT NUMBER

2015A4610201675

ACTION OF GRAND JURY

TRUE BILL

Joseph F. Hager
Foreperson of Grand Jury
Date: 3-24-16

VERDICT

Guilty

Douglas F. Hager - Line
Foreperson of Grand Jury
Date:

DOCKET NO. 2016-GS46- 00757

The State of South Carolina

County of York

COURT OF GENERAL SESSIONS

MARCH 24, TERM 2016

THE STATE

VS.

SHAWN ROSEBERRY BISNAUTH

INDICTMENT FOR

TRAFFICKING IN HEROIN

SC Code: § 44-53-370(e)
CDR Code: 0287

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I
hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

STATE OF SOUTH CAROLINA
COUNTY OF YORK

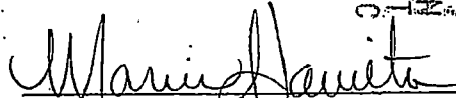
INDICTMENT

At a Court of General Sessions, convened on March 24, 2016, the Grand Jurors of York County present upon their oath:

TRAFFICKING IN HEROIN

The defendant, Shawn Roseberry Bisnauth, did on or about October 15, 2015, in York County, South Carolina, knowingly sell, manufacture, cultivate, deliver, purchase, or bring into this State, or did provide financial assistance or otherwise aid, abet, attempt, or conspire to sell, manufacture, cultivate, deliver, purchase, or bring into this State, or was knowingly in actual or constructive possession or knowingly attempted to become in actual or constructive possession of fourteen (14) grams or more of any morphine, opium, salt, isomer, or salt of an isomer thereof, namely Heroin, as described in Section 44-53-190 or 44-53-210, or fourteen (14) grams or more of any mixture containing any of these. All in violation of 44-53-370(e), *South Carolina Code of Laws* (1976, as amended).

Against the peace and dignity of the State, and contrary to the statute, such case made and provided.


MARINA B. HAMILTON
ASSISTANT SOLICITOR

CERTIFIED TRUE COPY
2017 NOV 21 AM 8:32
MARINA B. HAMILTON
CLERK OF COURT
YORK COUNTY, SC

WITNESSES

DEU

Witnessing Officer: T. Hager

ARREST WARRANT NUMBER

2015A4610201677

ACTION OF GRAND JURY

Foreperson of Grand Jury
Date: 3-24-16

TRUE BILL

VERDICT

Guilty

Foreperson of Grand Jury
Date:

DOCKET NO. 2016-GS46- 00758

The State of South Carolina

County of York

COURT OF GENERAL SESSIONS

MARCH 24, TERM 2016

THE STATE

VS.

SHAWN ROSEBERRY BISNAUTH

INDICTMENT FOR

TRAFFICKING IN METHAMPHETAMINE

SC Code: § 44-53-375(C)
CDR Code: 0452

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I
hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

STATE OF SOUTH CAROLINA
COUNTY OF YORK

INDICTMENT

At a Court of General Sessions, convened on March 24, 2016, the Grand Jurors of York County present upon their oath:

TRAFFICKING IN METHAMPHETAMINE

The defendant, Shawn Roseberry Bisnauth, did on or about October 15, 2015, in York County, South Carolina, knowingly 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 knowingly in actual or constructive possession or knowingly attempted to become in actual or constructive possession of ten (10) grams or more of Methamphetamine as defined and otherwise limited in Section 44-53-110, 44-53-210(d)(1), or 44-53-210(d)(2). All in violation of 44-53-375(C), *South Carolina Code of Laws* (1976, as amended).

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


MARINA B. HAMILTON
ASSISTANT SOLICITOR

CERTIFIED TRUE COPY
2017 NOV 21 AM 8:32
DAVID HAMILTON
CLERK OF COURT
YORK COUNTY, SC

WITNESSES

DEU

Witnessing Officer: T. Hager

ARREST WARRANT NUMBER

2015A4610100968

**ACTION OF GRAND JURY
TRUE BILL**

Eugenia A. Rearden
Foreperson of Grand Jury
Date: 11-9-2017

VERDICT

Guilty

Douglas F. Meyer - Clerk
Foreperson of Petit Jury
Date:

DOCKET NO. 2017-GS-46- 04770

The State of South Carolina

County of York

COURT OF GENERAL SESSIONS

NOVEMBER 9, TERM 2017

THE STATE

VS.

SHAWN ROSEBERRY BISNAUTH

INDICTMENT FOR

FAIL TO STOP FOR A BLUE LIGHT

SC Code: § 56-05-0750(B)(1)
CDR Code: 0065

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I
hereby appear in my own proper
person and plead guilty to the within
indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

STATE OF SOUTH CAROLINA

INDICTMENT

COUNTY OF YORK

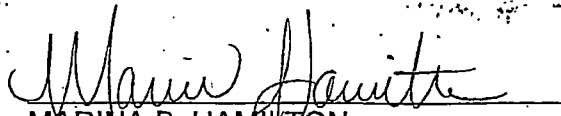
At a Court of General Sessions, convened on November 9, 2017, the Grand Jurors of York County present upon their oath:

FAIL TO STOP FOR A BLUE LIGHT

The defendant, Shawn Roseberry Bisnauth, did on or about October 15, 2015, in York County, while driving on a road, street, or highway of the state, fail to stop when signaled by a law enforcement vehicle by means of a siren or flashing light, all in violation of Section 56-05-0750(B)(1), Code of Laws of South Carolina (1976, as amended).

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

CERTIFIED TRUE COPY
2017 NOV 21 AM 8:33
DAVID HAMILTON
CLERK OF COURT
YORK COUNTY, S.C.


MARINA B. HAMILTON
ASSISTANT SOLICITOR

STATE OF SOUTH CAROLINA

COUNTY OF YORK

STATE VS.

SHAWN ROSEBERRY BISNAUTH

AKA:

Race: Black Sex: M Age: 30

DOB: SS#:

Address:

City, State, Zip: Rock Hill, SC 29732

DL# SID# SC01744039

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

TO: Possession with Intent to Distribute Cocaine 3rd or Sub. Offense

In violation of § 44-53-370 of the S.C. Code of Laws, bearing CDR Code # 0185

☒ NON-VIOLENT☐ VIOLENT☒ SERIOUS☐ MOST SERIOUS☐ Mandatory GPS☐ §17-25-45(CSC w/minor 1st or Lowd Act)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:

Marina B. Hamilton, Assistant Solicitor 80383 SC Bar #

S. Kullb. Defendant

Attorney for Defendant 72010 SC Bar #

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections ☐ County Detention Center, for a determinate term of 10 years or ☐ under the Youthful Offender Act not to exceed _____ years and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years 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 Service standard conditions of probation, which are incorporated by reference.

☒ 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 the State Department of Corrections. 764 days credit.☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C. Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____

☐ Set by SCDPPPS _____

Recipient: _____

*Fine: \$ _____

§14-1-206 (Assessments 107.5%) \$ _____

§14-1-211 (A)(1)(Conv. Surcharge) \$100 \$ 100

§14-1-211 (A)(2)(DUI Surcharge) \$100 \$ _____

§56-5-2995 (DUI Assessment) \$12 \$ _____

§56-1-286 (DUI Breath Test) \$25 \$ _____

Proviso 61.6 (Public Def/Prob) \$500 \$ _____

§14-1-212 (Law Enforce. Funding) \$25 \$ 25§14-1-213 (Drug Court Surcharge) \$150 \$ 150

§50-21-114 (BUI Breath Test Fee) \$50 \$ _____

§56-5-2942(J) (Vehicle Assessment) \$40/ea \$ _____

3% to County (if paid in installments) \$ \$ _____

TOTAL \$ 275Clerk of Court/Deputy Clerk: David HamiltonCourt Reporter: Quillean Butler

SCCA/217 (07/2016)

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2016GS4600756

A/W: 2015A4610201673

Date of Offense: 10/15/2015...

S.C. Code §: 44-53-375(B)

CDR Code #: 3039

SENTENCE SHEET

☒ CONVICTED OF or☐ PLEADS☐ Ordered PTUP _____ days/hours Public Service EmploymentObtain GED ☐

Attend Voc. Rehab. Or Job Co. _____

May serve W/E beginning _____

Substance Abuse Counseling _____

Random Drug/Alcohol Testing _____

Fine may be pd. in equal consecutive weekly/monthly

pmts. of \$ _____ Beginning _____

\$ _____ Paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel,

Proviso §61.6 requires \$500 be paid to Clerk

during probation and shall be collected before

any other fees: T.L. HamiltonPresiding Judge: T.L. HamiltonJudge Bar ID: _____ Judge Code: 2008Sentence Date: 11/17/17T.L. Hamilton

COUNTY OF YORK

STATE VS.

SHAWN ROSEBERRY BISNAUTH

AKA:

Race: Black

Sex: M

Age: 30

DOB:

SS#:

Address:

City, State, Zip: Rock Hill, SC 29732

DL#:

SID# SC01744039

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

TO: Traff Opium/Heroin 14g but <28g

In violation of § 44-53-370(e) of the S.C. Code of Laws, bearing CDR Code # 0287.

☐ NON-VIOLENT☒ VIOLENT☒ SERIOUS☐ MOST SERIOUS☐ Mandatory GPS☐ §17-25-45(CSC w/minor 1st or Lewd Act)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:

Marina B. Hamilton, Assistant Solicitor SC Bar # 80383

Defendant

Attorney for Defendant SC Bar # 2010

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections ☐ County Detention Center, for a determinate term of 2.5 years or ☐ under the Youthful Offender Act not to exceed _____ years and/or to pay a fine of \$50,000; provided that upon the service of _____ days/months/years 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 Service standard conditions of probation, which are incorporated by reference.

☒ 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 the State Department of Corrections. 764 DAYS CREDIT☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C. Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____

☐ Set by SCDPPPS

Recipient: _____

*Fine:		\$ 50,000
§14-1-206 (Assessments 107.5%)		\$ 53,150
§14-1-211 (A)(1)(Conv. Surcharge)	\$100	\$ 100
§14-1-211 (A)(2)(DUI Surcharge)	\$100	\$
§56-5-2995 (DUI Assessment)	\$12	\$
§56-1-286 (DUI Breath Test)	\$25	\$
Proviso 61.6 (Public Def/Prob)	\$500	\$
§14-1-212 (Law Enforce. Funding)	\$25	\$ 25
§14-1-213 (Drug Court Surcharge)	\$150	\$ 150
§50-21-114 (BUI Breath Test Fee)	\$50	\$
§56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
3% to County (if paid in installments)	\$	\$
TOTAL		\$ 104,025

Clerk of Court/Deputy Clerk: David Hamilton
 Court Reporter: Aileen Butler
 SCCA/217 (07/2016)

INDICTMENT/CASE#: 2016GS4600757
 A/W: 2015A4610201675
 Date of Offense: 10/15/2015
 S.C. Code §: 44-53-370(e)
 CDR Code #: 0287

SENTENCE SHEET

☒ CONVICTED OF or☐ PLEADS

☐ Ordered PTUP _____ days/hours Public Service Employment
 Obtain GED ☐
 Attend Voc. Rehab. Or Job Corp: _____
 May serve W/E beginning _____
 Substance Abuse Counseling ☐
 Random Drug/Alcohol Testing ☐
 Fine may be pd. in equal consecutive weekly/monthly
 pmts. of \$ _____ Beginning _____
 \$ _____ Paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel,
 Proviso §61.6 requires \$500 be paid to Clerk
 during probation and shall be collected before
 any other fees.

Presiding Judge: J.L. Hamilton

Judge Bar ID: _____

Sentence Date: 11/17/17Judge Code: 2008

STATE OF SOUTH CAROLINA

COUNTY OF YORK

STATE VS.

SHAWN ROSEBERRY BISNAUTH

AKA:

Race: Black Sex: M Age: 30

DOB: SS#: 0

Address: 1

City, State, Zip: Rock Hill, SC 29732

DL: SID# SC01744039

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

TO: Traff Meth/Crack 10g but <28g 3rd or Sub. Offense

In violation of § 44-53-375(C) of the S.C. Code of Laws, bearing CDR Code # 0452

☐ NON-VIOLENT☒ VIOLENT☒ SERIOUS☐ MOST SERIOUS☐ Mandatory GPS☐ §17-25-45(CSC w/minor 1st or Lewd Act)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:

Marina B. Hamilton, Assistant Solicitor SC Bar # 80383

Defendant

Attorney for Defendant SC Bar # 72010

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections ☐ County Detention Center, for a determinate term of 25 years or ☐ under the Youthful Offender Act not to exceed _____ years and/or to pay a fine of \$200,000; provided that upon the service of _____ days/months/years 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 Service standard conditions of probation, which are incorporated by reference.

☒ 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 the State Department of Corrections. 764 days credit.☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C. Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____

☐ Set by SCDPPPS _____

Recipient: _____

*Fine: \$ 200,000⁰⁰\$14-1-206 (Assessments 107.5%) \$ 215,000⁰⁰\$14-1-211 (A)(1)(Conv. Surcharge) \$100 \$ 100⁰⁰

\$14-1-211 (A)(2)(DUI Surcharge) \$100 \$ _____

\$56-5-2995 (DUI Assessment) \$12 \$ _____

\$56-1-286 (DUI Breath Test) \$25 \$ _____

Proviso 61.6 (Public Def/Prob) \$500 \$ _____

\$14-1-212 (Law Enforce. Funding) \$25 \$ 25⁰⁰\$14-1-213 (Drug Court Surcharge) \$150 \$ 150⁰⁰

\$50-21-114 (BUI Breath Test Fee) \$50 \$ _____

\$56-5-2942(J) (Vehicle Assessment) \$40/ea \$ _____

3% to County (if paid in installments) \$ \$ _____

TOTAL \$ 415,275⁰⁰

INDICTMENT/CASE#: 2016GS4600758
A/W: 2015A4610201677
Date of Offense: 10/15/2013
S.C. Code §: 44-53-375(C)
CDR Code #: 0452

SENTENCE SHEET

☒ CONVICTED OF or☐ PLEADS☐ Ordered PTUP _____ days/hours Public Service EmploymentObtain GED ☐

Attend Voc. Rehab. Or Job Corp _____

May serve W/E beginning _____

Substance Abuse Counseling _____

Random Drug/Alcohol Testing ☐

Fine may be pd. in equal consecutive weekly/monthly

pmts. of \$ _____ Beginning _____

\$ _____ Paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel,

Proviso §61.6 requires \$500 be paid to Clerk

during probation and shall be collected before

any other fees.

Presiding Judge: T.L. HughesJudge Bar ID: _____ Judge Code: 2008Sentence Date: 11/17/17Clerk of Court/Deputy Clerk: David HamiltonCourt Reporter: Aileen Butler

SCCA/217 (07/2016)

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF YORK
STATE VS.

SHAWN ROSEBERRY BISNAUTH

AKA: _____
 Race: Black Sex: M Age: 30
 DOB: _____ SS#: _____
 Address: _____
 City, State, Zip: Rock Hill, SC 29732
 DL#: _____ SID# SC01744039

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

☒ CONVICTED OF or☐ PLEADSTO: Fail To Stop For A Blue LightIn violation of § 56-05-0750(B)(1) of the S.C. Code of Laws, bearing CDR Code # 0065
☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ §17-25-45
 (CSC w/minor 1st or Lewd Act)
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:

Marina B. Hamilton 80383
 Marina B. Hamilton, Assistant Solicitor SC Bar #

Shawn Roseberry Bisnauth
 Defendant

David Hamilton 72010
 Attorney for Defendant SC Bar #

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections ☐ County Detention Center,
 for a determinate term of 3 years or ☐ under the Youthful Offender Act not to exceed _____ years
 and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years 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 Service standard conditions of probation, which
 are incorporated by reference.

☒ 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 the State Department of Corrections. 764 days credit☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C. Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____

☐ Set by SCDPPPS _____

Recipient: _____

*Fine: _____ \$ _____

§14-1-206 (Assessments 107.5%) \$ _____

§14-1-211 (A)(1)(Conv. Surcharge) \$100 \$ _____

§14-1-211 (A)(2)(DUI Surcharge) \$100 \$ _____

§56-5-2995 (DUI Assessment) \$12 \$ _____

§56-1-286 (DUI Breath Test) \$25 \$ _____

Proviso 61.6 (Public Def/Prob) \$500 \$ _____

§14-1-212 (Law Enforce. Funding) \$25 \$ 25

§14-1-213 (Drug Court Surcharge) \$150 \$ _____

§50-21-114 (BUI Breath Test Fee) \$50 \$ _____

§56-5-2942(J) (Vehicle Assessment) \$40/ea \$ _____

3% to County (if paid in installments) \$ \$ _____

TOTAL \$ 25☐ Ordered PTUP _____ days/hours Public Service EmploymentObtain GED ☐

Attend Voc. Rehab. Or Job Corp.

May serve W/E beginning _____

Substance Abuse Counseling ☐Random Drug/Alcohol Testing ☐

Fine may be pd. in equal consecutive weekly/monthly

pmts. of \$ _____ Beginning _____

\$ _____ Paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel,

Proviso §61.6 requires \$500 be paid to Clerk
 during probation and shall be collected before
 any other fees.

Presiding Judge: T.L. Hamilton

Judge Bar ID: _____

Sentence Date: 11/9/17Clerk of Court/Deputy Clerk: David HamiltonCourt Reporter: Coleen Butler

SCCA/217 (07/2016)

STATE OF SOUTH CAROLINA

County of York

SEARCH WARRANT

Date 10/009/2015

Officer Marvin Brown

STATE OF SOUTH CAROLINA

SEARCH WARRANT

Form Approved by
S.C. Attorney General
Section 17-13-180
March 16, 1978

COUNTY OF York

TO ANY BONDED LAW ENFORCEMENT OFFICER OF THIS STATE OR COUNTY OR OF THE MUNICIPALITY
OF York 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

(1) Shawn Bisnault B/M 508 270

(2) Sandpiper Dr., Rock Hill, S.C.

(3) 2007 Grey Toyota Sedan KJC-905-SC

Now, therefore, you are hereby authorized to search the subject premises for the property described below, and to seize such property if found:

DESCRIPTION OF PROPERTY

Heroin, currency, packaging materials, records to include written records, computers, computer software, hard drives, recording, cell phones and any other items related to the storage, sale and distribution of Heroin.

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

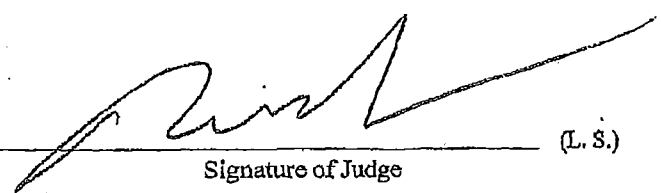
within ten days from the date of this warrant, such inventory to be signed by the officer executing this warrant, and a copy of such inventory shall be furnished to the person whose premises are searched if demand for such copy is made.

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 person 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.

Rock Hill
12 October

S. C.

20 15


Signature of Judge

(L. S.)

STATE OF SOUTH CAROLINA

AFFIDAVIT

COUNTY OF York

Personally appeared before me, one M. Brown
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

Heroin, currency, packaging materials, records to include written records, computers, computer software, hard drives, recording, cell
phones and any other items related to the storage, sale and distribution of Heroin.

DESCRIPTION OF PREMISES (PERSON, PLACE OR THING) TO BE SEARCHED

(1) Shawn Bisnauth B/M 508 270 11-3-87

(2) Sandpiper Dr., Rock Hill, S.C.

(3) 2007 Grey Toyota Sedan KJC-905 SC

REASON FOR AFFIANT'S BELIEF THAT THE PROPERTY SOUGHT IS ON THE SUBJECT PREMISES

See Attachment 1

Sworn to and Subscribed before me

this

12

day of

October

, 20

15

Signature of Judge

9:32 AM

M. A. Brown

Affiant

Address

Phone

Attachment "1"
Search Warrant Affidavit

- (1) Shawn Bisnauth B/M 5'08" 270 lbs DOB
- (2) Sandpiper Drive, Rock Hill, SC
- (3) 2007 Grey Toyota Sedan SC KJC-905

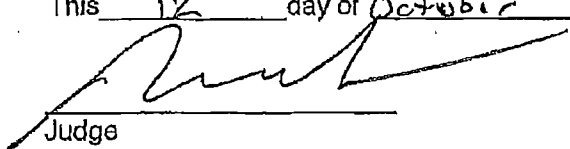
The affiant, who is a certified law enforcement officer assigned to the York County Multijurisdictional Drug Enforcement Unit and has several years of narcotic investigations experience states the following facts to support probable cause to search the premises listed within:

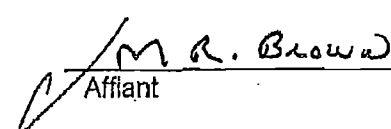
On October 9, 2015 Investigators received information from Charlotte Mecklenburg Police Department that a subject known as "Bis" was making deliveries of heroin from Rock Hill, SC to Charlotte, NC. Officers from CMPD and YCMDEU followed and observed "Bis" make what they believe to were four drug transactions. Officers from CMPD recovered heroin from two of the four transactions that were trafficking amounts of heroin. "Bis" completed one of the transactions in the amount of \$800.00 dollars which was a controlled buy utilizing government funds. Officers from CMPD and YCMDEU followed "Bis" after completing the transaction, maintaining visual sight of him until he arrived back at his residence at Sandpiper Drive, Rock Hill, County of York, South Carolina. "Bis" was operating a 2007 Grey Toyota Camery displaying SC KJC-905.

Officers from CMPD and YCMDEU were able to identify him, Investigator Jenkins from the YCMDEU was able to identify "Bis" as being Shawn Roseberry Bisnauth. Investigators completed a record's check through SCDMV and observed that Bisnauth's address returns to Tributary Drive, Fort Mill, SC. Bisnauth is believed to be living at Sandpiper Drive, Rock Hill, SC due to the power currently being in his mother's name. The cooperating source stated that Bisnauth lives in the area of Planet Fitness on Cherry Road and Ebinport Road, Rock Hill, SC. Bisnauth's residence is within a mile of Planet Fitness on Ebinport Road. Officers know Sheryl Mills-Browne to be his mother from records check to include booking information that he provided stating that his mother was Sheryl. Records check further indicates that Sheryl Mills-Browne resides currently at Tributary Drive which is listed as her property according to property records.

Based on the affiant's training and experience in narcotic investigations, it is believed that drug dealers keep contraband, proceeds of drug sales and records of drug transactions, photographs, video tapes, audio tapes, computer hard drives, disks and cell phones and cell phone data within the secure locations of their residence.

Sworn to and subscribed before me
This 12 day of October 2015.


Judge


Affiant

9:32 AM

RETURN

I received the attached Search Warrant OCTOBER 20 15, and have executed it as follows:
On October 15, 20 15 at 11:00 o'clock A.M, I searched
(the person) described in the warrant and (the premises)

I left a copy of the warrant with LASHUNDA McMOORE
Name of 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:

1. Paper Containing Marijuana	13. Methamphetamine
2. Cocaine	14. Three cellphones
3. Marijuana	15. 3 Clonazepam Pills
4. Samsung Tablet	16. Marijuana
5. Mini Ipad	17. Baggies w/ Residue
6. Paperwork	18. Bullets
7. (2) LG SMART PHONE	19. POF MP5 9mm SN# C32727
8. LG FLIP PHONE	20. Extra Express Pistol 556 SN# EP0256
9. Packaging Materials	21. MARIJUANA
10. Yellow Plastic Container	22. \$2003 in US Currency
11. Bag containing 2 Ecstasy Pills	23. \$550 in US Currency
12. Heroin	

This inventory was made in the presence of M. BROWN

AND D. BURKHART

I swear that this Inventory is a true and detailed account of all the property taken by me on the warrant.

SWORN to before me this 20th

day of OCTOBER, 20 15

[Signature]
(Signature of Judge)

[Signature]
(Signature of Officer Executing Warrant)

10:52 A.M

1 STATE OF SOUTH CAROLINA

2 -----x

3 STATE,

4 Plaintiff,

5 Case Numbers

6 -against- 2016-GS-46-00756-758

7 SHAWN ROSEBERRY BISNAUTH, 2016-GS-46-04770

8 Defendant.

9 -----x

10 November 14-16, 2017

11 York, S.C.

12

13 B E F O R E:

14 HONORABLE THOMAS HUGHSTON

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

16 Marina Hamilton and

17 Matthew Hogge,

18 Attorneys for the State

19

20 Twana Burris,

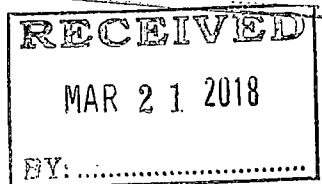
21 Attorney for the Defendant

22

23 Aileen Butler

24 Official Court Reporter

25



1		<u>I N D E X</u>			
2	WITNESS	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
3		PRETRIAL			
4	Rayford Ervin				
5	Ms. Hamilton	33			
6	Ms. Burris		37		
7		Trial			
8	Rayford Ervin				
9	Ms. Hamilton	131			
10	Ms. Burris		136		
11	Marvin Brown				
12	Ms. Hamilton	173		262	
13	Ms. Burris		193		272
14	Danny Burkhardt				
15	Ms. Hamilton	277		333	
16	Ms. Burris		298		
17	Dan Malphrus				
18	Ms. Hamilton	338		350	
19	Ms. Burris		345		
20	Pete Mitchum				
21	Ms. Hamilton	351			
22	Cynthia Mitchum				
23	Ms. Hamilton	357		369	
24	Ms. Burris		364		
25					

I N D E X

1	
2	Closing Arguments
3	Ms. Hamilton
4	Ms. Burris
5	Mr. Hogge
6	
7	Charge of the Court
8	Verdict of the Jury
9	Sentence of the Court
10	Certificate of Reporter
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<u>E X H I B I T S</u>				
	<u>NO.</u>	<u>DESCRIPTION</u>	<u>I.D.</u>	<u>EVD.</u>
3	State			
4	1	Photo	premarked	182
5	2	Photo	premarked	182
6	3	Photo	premarked	281
7	4	Photo	premarked	281
8	5	Photo	premarked	281
9	6	Photo	premarked	281
10	7	Photo	premarked	281
11	8	Photo	premarked	281
12	9	Photo	premarked	281
13	10	Photo	premarked	281
14	11	Photo	premarked	281
15	12	Photo	premarked	281
16	13	Photo	premarked	281
17	14	Photo	premarked	281
18	15	Photo	premarked	281
19	16	Photo	premarked	281
20	17	Photo	premarked	281
21	18	Photo	premarked	281
22	19	Tupperware	premarked	288
23	20	Drugs	premarked	363
24	21	Drugs	premarked	363
25				

<u>E X H I B I T S.</u>				
	<u>NO.</u>	<u>DESCRIPTION</u>	<u>I.D.</u>	<u>EVD.</u>
1	22	Drugs	premarked	363
2	23	Paperwork	premarked	296
3	24	Packaging material	premarked	296
4	25	Baggies	premarked	296
5	26	not entered		
6	27	not entered		
7	28	not entered		
8	29	Bond form	premarked	342
9	30	Drug report	premarked	363
10	31	Consent form	premarked	268
11	32	Cell phones	352	354
12	33	Cell phones	352	354
13	34	cell phones	352	354
14	35	Drug report	369	373
15	Defendant's Exhibits			
16	1	Photo	196	198
17	2	Photo	210	211
18	3	Photo	--	211
19	4	Photo	229	
20	5	Photo	230	303
21	6	Photo	233	334
22	7	Photo	302	303
23	8	Photo	--	305

1		<u>E X H I B I T S</u>		
2	<u>NO.</u>	<u>DESCRIPTION</u>	<u>I.D.</u>	<u>EVD.</u>
3	9	Photo	--	305
4	10	Photo	--	305
5		Court's exhibit		
6	1	Prior convictions		278
7				
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1 THE COURT: All right. What are we going to do
2 this morning.

3 MS. HAMILTON: Thank you, Your Honor. This is
4 going to be the trial of Shawn Roseberry Bisnauth. He
5 is going to trial and he has plead not guilty on True
6 Bill Indictments for failure to stop for a blue light,
7 Indictment number 2017-GS-46-04770. The next one is
8 possession with intent to distribute crack cocaine,
9 Indictment number 2016-GS-46-00756. Next Indictment
10 is trafficking in heroin, Indictment number
11 2016-GS-46-00757. And the final Indictment is
12 trafficking in methamphetamine, 2016-GS-46-00758.

13 Your Honor, we do have some pretrial matters to
14 take up.

15 THE COURT: All right. Well, I got the
16 Indictments that you called out and then I have three
17 more against him, I believe. What are you going to do
18 with those?

19 MS. HAMILTON: We are not moving forward on those
20 Your Honor.

21 THE COURT: I'm sorry.

22 MS. HAMILTON: We are not going to be moving
23 forward on those, Your Honor.

24 THE COURT: All right. So I give these to the
25 clerk or whoever keeps them.

1 THE COURT: How many are you going forward on?

2 MS. HAMILTON: It is four, Your Honor. It's
3 failure to stop for a blue light, trafficking in
4 methamphetamine, trafficking in heroin and possession
5 with intent to distribute cocaine.

6 THE COURT: What was the last one?

7 MS. HAMILTON: Possession with intent to
8 distribute cocaine.

9 THE COURT: That last one I have, possession with
10 intent to distribute crack cocaine.

11 MS. HAMILTON: That is actually a mistake on the
12 Indictment Your Honor.

13 THE COURT: All right.

14 MS. BURRIS: Your Honor, just for the record --

15 THE COURT: Let me just see if I can can get these
16 straight here. Okay.

17 Okay, I think I got them now.

18 MS. HAMILTON: I am checking into that Indictment.
19 It is actually cocaine, not crack cocaine. The
20 Indictment says crack cocaine. I'm trying to look and
21 see if the statute is correct Your Honor on that
22 Indictment.

23 THE COURT: All right. I am looking at the
24 witness list that you provided to me and the four
25 cases listing -- I'm just giving the last numbers are

1 756, 757, 758 and 770. So that's what I have here;
2 770, 758, 757 and 756. So I will give all the rest of
3 them back to the clerk.

4 Now I got that housekeeping straight. What's
5 next?

6 MS. BURRIS: Your Honor, if I may interrupt, I
7 just want to make sure if we can just put on the
8 record specifically which charges are being dismissed.

9 MS. HAMILTON: The remaining Indictments in this
10 case which are the gun charges, Your Honor, are going
11 to be dismissed at the conclusion of the trial. I
12 think that is all that is left -- and possession of
13 controlled substance.

14 As to the 00756 indictment; the possession with
15 intent to distribute crack cocaine we would ask or
16 move to amend that to be cocaine Your Honor. The drug
17 report which has been provided to the defense they
18 have had for a while. The defendant is on notice that
19 this is in fact cocaine in this case. It's stated in
20 the report. This is just an error on my part. So we
21 -- our argument would be that he is on notice as to
22 the original charge that should have been charged
23 which was cocaine in this case.

24 MS. BURRIS: Thank you, Your Honor. May it
25 please the Court. Thank you. That actually opens up

1 that Indictment to a jury would imply that it was
2 crack cocaine. Simply it's whited out on the front
3 and on the body of the Indictment and of course on the
4 title of the Indictment. Crack cocaine is 44-53-375.
5 Cocaine is 44-53-370. And so I would ask respectfully
6 if you would grant my motion to quash this Indictment
7 simply because a jury would only be able to infer that
8 it's possession with intent to distribute crack
9 cocaine verses cocaine based on the white out.

10 THE COURT: I appreciate your position but I am
11 going to allow the amendment. All right. So we got
12 these four charges now. What's next?

13 MS. HAMILTON: I believe defense may have some
14 motions to make as to the search warrants. I will let
15 you move forward with those motions.

16 MS. BURRIS: Thank you. My first motion is a
17 motion to sequester the witnesses.

18 THE COURT: Any objection to that?

19 MS. HAMILTON: No objection Your Honor. We would
20 just ask for reciprocal sequestration.

21 THE COURT: All right.

22 MS. BURRIS: Thank you, Your Honor. Our next
23 motion is a motion to exclude prior convictions. I
24 was actually given some certified convictions by the
25 the assistant solicitor. One was a possession of

1 Honor?

2 THE COURT: I'm sorry.

3 MS. BURRIS: Would you like the citations?

4 THE COURT: No.

5 THE COURT: Anything else pretrial?

6 MS. BURRIS: Yes, we do Your Honor. This is a
7 motion to insure that the State has complied with all
8 of the discovery requests which leads to my motion for
9 the State to comply with the defense's request to
10 disclose the identification of the confidential
11 informant. Particularly the search warrant is based
12 on a corroborating source and these terminologies are
13 used interchangeably.

14 In the search warrant affidavit it mentions a
15 corroborating source. This derives out of a different
16 jurisdiction. So allegedly there was a controlled buy
17 in the State of North Carolina. There was information
18 actually provided to an officer who was not actually
19 present during the time of the controlled buy.
20 According to the report the officer actually sent
21 three other officers there. There is no indication as
22 to the reliability of the confidential informant; what
23 type of relationship that this Charlotte Mecklenburg
24 police actually had with the confidential informant.

25 THE COURT: What are you asking me to do at this

1 point?

2 MS. BURRIS: I'm asking the State to disclose the
3 identification of the confidential informant.

4 THE COURT: Are you ready to do that?

5 MS. HAMILTON: No, I'm not Your Honor.

6 THE COURT: Your not. At some point you are going
7 have to.

8 MS. HAMILTON: Well, it's the basis of the search
9 warrant. The face of the search warrant never
10 identified the C.I. and we as the basis of the search
11 warrant was presented to the judge who found probable
12 cause to be found based on what was given to him at
13 that time. We are looking at the face of that search
14 warrant. Not the contents of another distribution
15 which he is not being tried in this case. Therefore
16 we don't feel that we need to reveal a C.I. deal that
17 was not the even being brought as a case right now.

18 THE COURT: So you're saying the confidential
19 informant is not involved in this case.

20 MS. HAMILTON: No, Your Honor, he is not. It's a
21 basis of the search warrant. The face of the search
22 warrants mentions the confident informant buys as a
23 way to get probable cause to search the residence of
24 the defendant. That buy was a basis of the search
25 warrant and testified to by the affiant; Commander

1 Marvin Brown of the DEU. We don't believe we need to
2 reveal the identity of the C.I. that served the basis
3 for the search warrant when it's not even being tried
4 in this case, Your Honor. We take the search warrant
5 for the face value that was presented to the judge.
6 We look to see if there is enough probable cause in
7 that and the C.I. was not identified at that time and
8 the judge still found probable cause. We believe we
9 do not need to reveal the identity of the
10 confidential informant that served the basis for the
11 search warrant.

12 THE COURT: Anything you want to say in response
13 to that?

14 MS. BURRIS: Absolutely. Your Honor, I am going
15 to do a motion for suppression next. However, in
16 looking at some cases -- this was a case of Roviario
17 versus United States of American and this is a case
18 that the State of South Carolina has referenced in
19 regards to disclosing the C.I.'s identification. What
20 we have is a search warrant and the basis of that
21 search warrant affidavit and the information presented
22 to the Magistrate Court judge is substantially and
23 almost solely based upon the information that was
24 provided of the control buy that's stated from a
25 separate jurisdiction. So there is an officer in a

1 separate jurisdiction. That jurisdiction namely
2 Charlotte, North Carolina, who provided information in
3 regards to a controlled buy conducted by this
4 confidential informant. That was the sole basis and
5 information that was presented to the Magistrate Court
6 judge for the purpose of asking for a probable cause.
7 However, in the search warrant affidavit it does not
8 state any information in regards to the controlled
9 buy. Whether or not there was any statement; whether
10 there was a line-up; whether there was a statement
11 saying that my client was actually identified. It
12 doesn't indicate how long this confidential informant
13 had actually known my client. It doesn't indicate
14 whether or not the drugs were actually tested. It
15 doesn't indicate the relationship, whether there was
16 an audio or video surveillance. The question is how
17 controlled was this controlled buy and was there even
18 a controlled buy.

19 Now, my question leads to couldn't we actually have
20 the North Carolina police officer here. Of course we
21 could in regards to asking these questions in regards
22 to the controlled buy. Because the question is, in
23 North Carolina -- and of course we did make an
24 attempt --

25 THE COURT: All right, of course I don't know

1 anything about the facts of this case at all, really.
2 I'm learning about about it for the first time now.
3 So I don't know the story that the State is going to
4 tell; going present, as far as this is concerned to
5 fit all this into the story somehow or another. So, I
6 don't know how you want to proceed, but I don't know
7 anything about how this develops at this point. This
8 is not educating me very well about it.

9 MS. BURRIS: Okay. Let me start, if I may, Your
10 Honor.

11 THE COURT: Maybe the State should go first. What
12 do you all intend to present at trial?

13 MS. HAMILTON: Exactly, Your Honor.

14 So at trial we were not going to bring up the
15 search warrant at all. Any contents of a search
16 warrant or any contents of a buy, any contents of what
17 occurred in North Carolina will not be brought up at
18 trial. This is a pretrial issue that we will take up
19 with you to determine if is this a valid search
20 warrant. We will present the affiant. He will take
21 the stand. Give you the facts as to what the basis of
22 the search warrant was and what he presented to the
23 Magistrate judge at the time in which he swore to this
24 search warrant. We will not admit that at trial. We
25 do not plan to admit that at trial because as I said

1 before, it's the informant, who was the C.I., we are
2 not trying that case. We are not trying that crime.
3 He is not a material witness in this case. He is not
4 even going to be brought up in this case. All we are
5 doing in regards to this confidential informant buy is
6 to determine the liability of the search warrant. At
7 that time once -- and if you find this to be a valid
8 search warrant, we would just say at trial they were
9 serving a valid search warrant on the residence and
10 that's where we pick this case up. We are not bringing
11 up any confidential informant buy.

12 We believe that that's -- we should just take the
13 face of the search warrant as it is presented, as it
14 was presented to the Magistrate judge and determine
15 the validity of that Your Honor.

16 THE COURT: Well, tell me about what happened as
17 far as the case? What do you intend to show at trial?

18 MS. HAMILTON: We intend to show that the
19 defendant obviously --

20 THE COURT: Apparently you got a search warrant
21 here in York County from a Magistrate?

22 MS. HAMILTON: Yes, Your Honor.

23 THE COURT: Based on a affidavit from somebody?

24 MS. HAMILTON: Yes, Your Honor.

25 THE COURT: But that does mention a C.I.?

1 MS. HAMILTON: Yes, Your Honor.

2 THE COURT: Okay. But you got that and then what
3 happened after that?

4 MS. HAMILTON: They attempt to execute the search
5 warrant on the residence.

6 THE COURT: Of the defendant.

7 MS. HAMILTON: On the defendant, yes.

8 THE COURT: Okay.

9 MS. HAMILTON: He flees in a vehicle. They do not
10 catch him at that time. Two hours later they go back
11 -- or two how hours later they are able to actually
12 execute the search warrant on the residence, that same
13 day after the the failure to stop for a blue light.
14 They execute that search warrant on that residence in
15 which the defendant's girlfriend who also lives with
16 him is present at that residence. They search it.
17 They find multiple types of drugs. They find
18 packaging material; evidence of distribution and
19 that's the case Your Honor.

20 THE COURT: Okay. Okay, I'm beginning to get a
21 picture of what we are dealing with.

22 All right. So you are going to move to suppress
23 what they found with the search warrant?

24 MS. BURRIS: Yes, sir, motion to suppress the
25 evidence.

1 THE COURT: All right.

2 MS. BURRIS: And Your Honor, we have a case that
3 was in May 2016. This is State versus Alex Robertson.
4 It's a Supreme Court of South Carolina case and the
5 Supreme Court of South Carolina affirmed the Court of
6 Appeals decision. The Court of Appeals reversed the
7 conviction holding that the search warrant affidavit
8 did not include any information to establish the
9 reliability of the informant.

10 THE COURT: All right. Well, I got to look at the
11 search warrant at some point.

12 MS. BURRIS: I have copy, Your Honor.

13 THE COURT: All right.

14 MS. HAMILTON: Do you want me to actually present
15 the officer? Do all of that before we make these
16 arguments, Your Honor.

17 THE COURT: Well, I got to learn about it somehow
18 or another.

19 MS. BURRIS: I think the decision, because the
20 information -- if I may approach?

21 THE COURT: Yes.

22 MS. BURRIS: The information presented to
23 Magistrate Court judge --

24 THE COURT: Well, I assume now we're dealing with
25 a motion to suppress the products of the search.

1 MS. BURRIS: Motion to suppress the evidence,
2 that's correct, and in addition motion to disclose the
3 confidential informant.

4 THE COURT: Really it's the product of the search
5 that you are really after.

6 MS. HAMILTON: Your Honor, the State at this time
7 would just like to present the officers.

8 THE COURT: All right. Let me read this first.

9 MS. HAMILTON: Okay.

10 THE COURT: So I get an idea about what we are
11 dealing with.

12 All right. This is the search warrant affidavit.
13 Somebody give me a copy of the actual search warrant.

14 MS. HAMILTON: I have a copy of the search
15 warrant, Your Honor.

16 May I approach?

17 THE COURT: Sure.

18 All right. Again, I have an idea of what we are
19 dealing with. All right. So, what do you want me to
20 do and why?

21 MS. BURRIS: So Your Honor, respectfully, what we
22 are asking for and it is based on the case law there
23 is a 2016 which I believe I passed up to Your Honor.
24 If the substantial basis for the search warrant is
25 based on what they placed in the search warrant, the

1 words controlled buy, but on the police incident
2 report they actually considered it to be a cooperating
3 source. My client -- we do not know the informant's
4 veracity. We have a right to know who, number one,
5 who this confidential informant is; the reliability of
6 this confidential informant; whether or not there was
7 any government funds exchanged; a copy of the
8 government funds; whether or not there of course was
9 any audio or video surveillance; whether or not there
10 was any communications between Mr. Bisnauht and this
11 cooperating source. We are entitled to know that Your
12 Honor, respectfully. We are asking for a motion to
13 suppress evidence simply because the information that
14 was given to the Magistrate Court judge was not
15 sufficient for the judge to actually find probable
16 cause in this particular case. Again, what you have
17 is an officer who was not present during the control
18 buy investigation. You have a officer, his name is
19 Mr. Marvin Brown. He was there. He went to this
20 Magistrate Court judge in the State of South Carolina.
21 He was provided information from North Carolina. I
22 even asked of course in discovery where is the control
23 buy money? Where is the government money? At one
24 point Miss Hamilton flashed the money before me and
25 she said, Your Honor, here is the control buy money..

1 I asked for a copy. She would not give me a copy of
2 it and later said that the control buy money did not
3 exist. So --

4 MS. HAMILTON: Your Honor, I did not say it did
5 not exist. I stated it's not relevant to this case.

6 MS. BURRIS: Not relevant. And so she had the
7 control buy money so she said, in her possession. And
8 she indicated that the control buy money was actually
9 a part of this investigation.

10 Now, my understanding is that she said it does did
11 not exist. So it sounds like again now I have to of
12 course under Rule Five and Brady discover if she has
13 the control buy money. Of course we are entitled to a
14 copy of the control buy money. So we are asking for
15 Your Honor to suppress, of course, this evidence
16 simply because the information provided is not
17 sufficient. And do I have some cases on point, Your
18 Honor, if you could just give me one second.

19 One of the things that the Supreme Court of the
20 State of South Carolina just recently said last year
21 is is that we must look at the veracity and the basis
22 of knowledge a person suppling the information in a
23 search warrant affidavit. We have to take that into
24 consideration in determining whether or not there was
25 probable cause to even issue a search warrant. So we

1 have a person who was not present during the control
2 buy investigation in North Carolina. He provides
3 information that a control buy took place in North
4 Carolina. The assistant solicitor's office have not
5 turned over the the content of any communication with
6 a confidential informant; whether there was a line-up;
7 whether or not there was any audio or video; whether
8 or not there was any text messages, and so that
9 remains a question of whether or not a control buy
10 even took place.

11 If York County had a control buy taken place I know
12 for sure they would have gone through the proper
13 procedure and protocol. They would have stated in
14 discovery there was a statement made to the defendant.
15 We know how the the confidential informant knows the
16 defendant. We know the relationship between the
17 confidential informant and the defendant. The
18 confidential informant actually picked the defendant
19 out of a line-up. We have a copy of the government
20 funds that was turned over for the transaction to take
21 place. We have audio and video surveillance and they
22 would have allowed the attorney to sign an Order
23 stating that I would not have disclosed that C.I.
24 information. But the bottom line is you have to look
25 at the search warrant on its face. You have to look

1 at the information that is provided to the Magistrate
2 Court judge at the time that he actually found
3 probable cause.

4 THE COURT: I agree with all that. Tell me what
5 it is you think is missing.

6 MS. BURRIS: The control buy information, Your
7 Honor. They have not disclosed the identification of
8 the confidential informant. They have not given me
9 any government funds. They have not given me any
10 statements. How do we even know that control buy took
11 place in the State of North Carolina.

12 MS. HAMILTON: In the search warrant the officer
13 swore under oath that that took place and the
14 Magistrate found probable cause based on that.
15 Additionally, under State versus Batson only
16 discoverable -- if informant is an active participate
17 in crime or material witness on issue of guilt or
18 innocence as opposed to a mere tipster.

19 We are not trying a distribution here. We are not
20 trying this distribution. This is not a material
21 witness in the case at all. Therefore, there is no
22 need to disclose any of this information.

23 We are looking to the face of the search warrant as
24 to what was under oath presented to the Magistrate
25 judge. Judge Davenport at the time in which this

1 search warrant was sought. That is what we are
2 looking to, Your Honor, and the State would hold -- or
3 the State's position is she's talking about the
4 confidential informant's reliability. That buy was
5 witnessed by officers and corroborated by officers'
6 visuals -- visual and that will be testified to on the
7 stand by Rayford Ervin who was actually present during
8 these buys, buys that actually were not C.I. buys and
9 it's stated in there there were additional buys that
10 officers witnessed. Officer Ervin is one who did
11 witness those buys.

12 Officer reliability, under Illinois versus Gates,
13 the affidavit is based in part on information provided
14 by an informant, of known reliability -- which we have
15 in this case -- police corroboration, details provided
16 and the tip may establish probable cause Your Honor.
17 And that is the State's position. We have officers
18 corroborating this information; one under oath and
19 another telling another officer as to what he
20 witnessed in North Carolina. And we believe there is
21 enough in this search warrant to keep it valid because
22 of the standard of review in this case is probable
23 cause inquiry only requires fair probability and not
24 certainly the evidence of crime will be found in a
25 particular location. The defendant made these drug

1 deals and was followed back by York County DEU from
2 that drug deal. Never lost sight of him to his
3 residence at which they sought the search warrant for
4 Sandpiper Drive. So Your Honor, we would believe
5 there's enough probable cause on the face of this
6 Indictment to be a valid search warrant. As I stated
7 before this case does not require the ID of
8 confidential informant nor discovery of any evidence
9 associated with that controlled buy since we are not
10 using it in the case in Chief.

11 MS. BURRIS: Under State v Clifton, Your Honor,
12 the Court clearly talks about there have to be some
13 establishment of the reliability.

14 THE COURT: I agree with that. That's what
15 bothers me a little bit about this, is that included
16 in the affidavit there's nothing as far as why this
17 officer believes any of that is true is what is stated
18 in there and that is a part of it and everything. I
19 appreciate the position but at this point I'm not
20 going to suppress the warrant, the search warrant, but
21 the fact that he doesn't give any reason as to why he
22 believes any of this to be true bothers me.

23 MS. BURRIS: Your Honor, if I may just for the
24 record, one of the cases that State v Clifton -- and
25 it gives opinion and examples of affidavits

1 characterizing the informant as reliable. It says
2 that --

3 THE COURT: It doesn't even say that in there, but
4 anyway we will take this up when it comes up during
5 the trial and will I deal with it at that time. I
6 will not rule it out now.

7 MS. BURRIS: Okay, so the answer is you have not
8 made your ruling?

9 THE COURT: No, I am not suppressing it now.

10 MS. HAMILTON: Your Honor, would you prefer me to
11 put the officers up so she can question the officers
12 as to her concerns as to confidential because the
13 confidential informant is only part of this search
14 warrant that gives the basis for searching the
15 residence. There are additional factors.

16 THE COURT: You do whatever you think you need to
17 do to support your position.

18 MS. HAMILTON: Okay. Your Honor, the State would
19 request to call just two officers --

20 THE COURT: All right.

21 MS. HAMILTON: -- the affiant and someone who --

22 THE COURT: Come on up.

23 MS. HAMILTON: Okay, thank you. The State would
24 call Rayford Ervin, Agent Rayford Ervin.

25 RAYFORD ERVIN, called as a witness, having been

1 duly sworn by The Clerk, was examined and testified
2 as follows:

3 MS. HAMILTON: May it please the Court.

4 THE COURT: Go ahead.

5 DIRECT EXAMINATION

6 BY MS. HAMILTON:

7 Q Sergeant Ervin, could you please state your full name
8 for the record?

9 A Rayford Lewis Ervin, Junior.

10 Q And what is your occupation?

11 A I'm a police officer.

12 Q And how long have you been in law enforcement?

13 A Twenty-five years.

14 Q And how long have you been employed specifically with
15 the York County Drug Enforcement Unit?

16 A Since 1999.

17 Q And do you have personal knowledge as to the facts
18 stated that served the basis for the search warrant?

19 A Yes, ma'am.

20 Q Okay. I want to ask you what facts served as the basis
21 for the search warrant from October 9th, 2015?

22 A Commander Brown called me by phone and wanted me to get
23 in touch with with a Officer Lackey from CMPD in reference to an
24 individual that lived down in York County that was coming to
25 Charlotte and selling heroin.

1 Q Okay. And when you made contact with him what did you
2 do when you spoke with him?

3 A We agreed to meet. We met at predetermined location.

4 THE COURT: Who was it that you spoke to.

5 THE WITNESS: Officer Lackey.

6 THE COURT: Lackey?

7 THE WITNESS: Yes, sir.

8 Q And he is from what agency?

9 A He's from Charlotte Mecklenburg Police Force.

10 Q Okay. And you spoke with him and what happened?

11 A I spoke with him. I met with him at predetermined
12 location. He advised me that they had a confidential source
13 that can buy from Shawn. They set up the deal. We all started
14 conducting surveillance around the location. Shawn showed up.
15 The C.I. met. The C.I. gave him \$800 for I think a previous
16 ounce that he had fronted him and Shawn gave him another ounce.

17 Q Fronted him another ounce?

18 A Yes, ma'am.

19 Q And did you maintain visual of this?

20 A Yes, ma'am.

21 Q Keep going. I'm sorry.

22 THE COURT: You actually observed this is that
23 what you are saying?

24 THE WITNESS: Yes, sir. I observed the C.I. and
25 Shawn met, sir.

1 THE COURT: All right.

2 A The C.I. got out of his vehicle and got in Shawn's
3 vehicle at that location.

4 Q So even though you were not hearing audio you are
5 maintaining visual of this entire incident?

6 A Yes, ma'am.

7 Q And that is a controlled buy?

8 A Yes, ma'am.

9 Q Okay, so what happens after that controlled buy?

10 A After that Shawn leaves in his grey Toyota. We follow
11 him to another location where he backed into a parking spot. We
12 start conducting surveillance on his vehicle, which we observed
13 three other individuals meet with him at this location.

14 Q Okay, and you observed three other people meet with him
15 at this location. Met with him in what way?

16 A They would get out of the vehicle, get in his vehicle.
17 Stay approximately maybe a minute if so, and through my training
18 and experience and my knowledge through narcotics I can see that
19 being a controlled -- a drug transaction.

20 Q Okay. And what happened next after you witnessed all
21 of these incidences? So the time span from when you see the
22 controlled buy to the completion of all these other drug
23 transactions -- I believe three in total that you believed to be
24 drug transactions, what is the time period?

25 A I would say maybe an hour.

1 Q Approximately?

2 A Approximately an hour maybe.

3 Q So what happens after you witness this drug -- what you
4 believe to be drug transactions based on your training and
5 experience?

6 A At that time Shawn drives off. We start conducting
7 surveillance by following him. He goes and gets on I-77 south.
8 I advise Commander Brown that we are headed back towards York
9 County.

10 Q Go ahead. I'm sorry.

11 A I follow him all the way down to 77 which he exits off
12 on Cherry Road which at that time I advised other officers
13 including Commander Brown that he's existing I'm going to say
14 around Popeye's. Commander Brown took up surveillance and they
15 followed him to his house.

16 Q And did you all maintain constant visual of him from
17 the moment he did those drug deals until the time he got back to
18 Rock Hill?

19 A Yes, ma'am.

20 Q And so all of these things --

21 THE COURT: Wait a minute. Let me understand. So
22 you witnessed the drug deal up in North Carolina
23 involving the defendant and came back and told Mr.
24 Brown about that; is that right?

25 THE WITNESS: Yes, sir.

1 THE COURT: And so that first paragraph -- this
2 first paragraph really in the search warrant affidavit
3 is really based on what you told Mr. Brown?

4 THE WITNESS: Yes, sir.

5 Q And that's my next question. Did you convey all this
6 information to Commander Brown for the purposes of obtaining a
7 search warrant?

8 A Yes, ma'am.

9 THE COURT: Maybe you ought to put that in the
10 next affidavit he does.

11 MS. HAMILTON: Yes, Your Honor.

12 Q But is that what you all do normally? There's so many
13 people doing these deals and then you all come together at the
14 end and discuss what occurred for a search warrant?

15 A Yes, ma'am.

16 Q So that's common practice?

17 A Yes, ma'am.

18 Q Okay.

19 MS. HAMILTON: Please answer any questions the
20 defense may have.

21 CROSS EXAMINATION

22 BY MS. BURRIS:

23 Q How are you doing Officer Ervin?

24 A I'm doing fine.

25 Q Good. Officer Ervin, so Marvin Brown actually was not

1 in North Carolina during any of these investigations, correct?

2 A That's correct.

3 Q Okay. So it was you present, as well as two additional
4 officers who went to North Carolina to participate in this
5 investigation, right?

6 A Yes, ma'am.

7 Q And the investigation actually started on Friday
8 October the 9th, is that right?

9 A That's correct.

10 Q You receive a phone call from Charlotte Mecklenburg
11 Police Department, this Detective Lackey says we're going to
12 conduct what we consider to be a controlled buy, right?

13 A I received a phone call from Commander Brown who
14 apparently received a phone call from Officer Lackey from
15 Charlotte Mecklenburg Police Department.

16 Q So initially you did not have communication with
17 Detective Lackey. Detective Lackey calls this third party,
18 Commander Brown, and Commander Brown did not actually go to
19 North Carolina. Instead he said I am going to send you, Mr.
20 Ervin, to North Carolina, right?

21 A Commander Brown advised me to call Officer Lackey and
22 we agreed to meet up in North Carolina.

23 Q Okay, and you all agreed to meet up in North Carolina.

24 Now, at that time you indicate here you keep saying, Shawn.

25 At that time you didn't actually know the name of the individual

1 in which Detective Lackey was investing did you?

2 A No, ma'am.

3 Q Okay. And so you -- Detective Lackey indicated that
4 this cooperating source called Mr. Bisnauht what?

5 A We call him Bizz.

6 Q Bizz. Which was later identified as Shawn?

7 THE COURT: I remember this as non-jury. You
8 might save some of this for the jury.

9 MS. BURRIS: Yes, sir.

10 Q So the cooperating source said Bizz. He's familiar
11 with Bizz, right?

12 A Correct.

13 Q Now, you having conducted controlled buys before you
14 know how that typically takes place don't you?

15 A Yes, ma'am.

16 Q Okay. So in York County based on how many years of
17 experience do you have?

18 A Law enforcement 25, narcotics around 19.

19 Q Okay, Narcotics 19 years. When you conduct controlled
20 buys you actually set up a confidential informant file don't
21 you?

22 A Yes, ma'am.

23 Q Okay. And in North Carolina there was not a
24 confidential file set up was it?

25 A Not to my knowledge because I didn't deal with the

1 C.I..

2 Q You did not deal with the C.I.?

3 A Correct.

4 Q And in North Carolina there was no audio or video
5 surveillance, correct?

6 A I would not know. I did not deal with individuals that
7 were actually handling the C.I.. I just met with Officer Lackey
8 and we started conducting surveillance. He advised me that they
9 were going to do this transaction. That Mr. Bisnauht had
10 fronted the C.I. an ounce. They were going to pay for that
11 ounce and Mr. Bisnauht was going to front the C.I. another
12 ounce.

13 Q What type of surveillance did you do? Did you do any
14 type of audio surveillance? Video surveillance?

15 A I just observed by sight.

16 Q Observed by sight?

17 A That's right.

18 Q And at that particular time you had actually met with
19 Detective Lackey, right?

20 A Yes.

21 Q You knew exactly what Bizz looked like?

22 A Kinda of. Sort of.

23 Q Kinda of. Sort of. What does kinda sorta mean? How
24 did you know?

25 A I had vehicle description.

1 Q A vehicle description?

2 A What he would be driving.

3 Q Okay. And what was the vehicle description?

4 A It was a grey Toyota.

5 Q Okay.

6 A The grey Toyota backed in. At which at that time the
7 C.I. got out of the vehicle.

8 Q Okay.

9 A Got in the vehicle.

10 Q Okay.

11 A Stayed there for a very short period of time. Got out
12 of the vehicle. Got back in the undercover vehicle. At that
13 time he pulled off drove right by me and I seen what he looked
14 like.

15 Q Okay. So, you did not meet with the confidential
16 informant or as far as you know Charlotte did not have a file
17 where this confidential informant actually picked Bizz out of
18 line-up, right?

19 A That's correct.

20 Q So there was no line-up?

21 THE COURT: Remember this is non-jury. You might
22 want to save some of this for the jury. Really the
23 point is he saw the transaction take place between the
24 defendant and somebody in North Carolina. He came
25 back and told Brown about it and Brown went to the

1 Magistrate and got the affidavit based on that.

2 MS. BURRIS: Yes, sir, I understand.

3 Now -- and Your Honor I apologize, I just want to
4 make sure the record is clear.

5 Q So Mr. Ervin -- Officer Ervin. I apologize. Now,
6 there is an indication in the search warrant affidavit that
7 there were government funds used?

8 A Yes, ma'am. Usually we use government funds to
9 purchase.

10 Q We use. Does North Carolina use government funds?

11 A Down here we do. I am assuming North Carolina does
12 too.

13 Q But you never saw Detective Lackey give government
14 funds?

15 A No, ma'am.

16 Q Now, based on what you know this confidential -- or
17 cooperating source, never indicated that he actually been to Mr.
18 Bisnauht's alleged residence or to Sandpiper Drive had he?

19 A To my knowledge no, because I never talked to the C.I.

20 Q In fact based on the search warrant affidavit the C.I.
21 indicates that Bisnauht lived in the area of Planet Fitness
22 Cherry Road and Ebinport Road, right?

23 A I'm assuming so. Like I said, I never talked to the
24 C.I.

25 Q Officer, if you were not certain about whether or not

1 it was Mr. Bisnauht who made the transaction but you solely went
2 off the type of car he drives is what you indicate?

3 A Yes, ma'am.

4 Q And the Charlotte Mecklenburg Police Department did not
5 produce to you a file saying that the C.I. had actually picked
6 Mr. Bisnauht out of line-up indicating that was him driving that
7 car, right?

8 A No, ma'am.

9 Q Now you indicate there were two alleged control buys,
10 right?

11 A There was one control buy. After that he left that
12 parking lot, went to another parking lot, backed into a parking
13 spot and we observed three other vehicles pull up and three
14 other individuals meet with him.

15 Q So you are not certain whether or not there was drugs
16 or money exchanged at any of those controlled buys were you?

17 A Through my training and experience I believe they were
18 drug transactions because the short time they were in the
19 vehicle. I mean it was like in and out and then they would
20 drive off. Through my training experience because I observe
21 many, many drug transactions.

22 Q Now, did Detective Lackey indicate that there was any
23 type of communication between Bizz and this cooperating source?

24 A As far as?

25 Q Communications via text about setting up the deal?

1 Setting up the transaction?

2 A No.

3 Q None. So to your knowledge no text messages?

4 A Yes, ma'am.

5 Q No recorded phone calls between Bizz and this .
6 cooperating source?

7 A Right. I'd never seen the cooperating source and never
8 talked to the cooperating source handler.

9 Q So you don't even know how long Charlotte Mecklenburg
10 Police Department actually knew this cooperating source do you?

11 A Correct.

12 Q And you can not testify as to how reliable this
13 cooperating source was can you?

14 A That's correct.

15 MS. BURRIS: Beg the Court's indulgence.

16 Q About how far were you -- about how far were you when
17 you saw this transaction take place or that you allege is a
18 transaction?

19 A May be two hundred yards.

20 THE COURT: How many transactions did you see?

21 THE WITNESS: I observed the controlled one and
22 then we followed him to another location and then we
23 observed three other vehicles pull up and three other
24 individuals interact with him. Get in the car for a
25 very short period of time.

1 THE COURT: So are you counting that as four or
2 two?

3 THE WITNESS: Four. Well let's see. We had the
4 control and then three other vehicles met with.

5 THE COURT: So two events basically I mean.

6 THE WITNESS: Two events. Two separate locations.

7 THE COURT: But four people?

8 THE COURT: One was control and the other three we
9 observed people.

10 THE COURT: Okay. I'm just trying to make sure I
11 understood it. Okay

12 Q So two that you think were controlled buys?

13 A Three.

14 Q That you think. Now, you never actually saw the hand
15 to hand transaction did you?

16 A Are you talking about between him and the C.I.?

17 Q Yes.

18 A I just seen him get in the car.

19 Q Just saw them get in the car together?

20 A Correct.

21 Q So you don't know if it was just a conversation or
22 anything was exchanged?

23 A Correct. I mean I didn't have audio to where I could
24 listen in on it.

25 Q Okay. And how long did you stay there after this you

1 were participating in this investigation on October 9th? How
2 long did you actually stay in North Carolina with detective
3 Lackey?

4 A I would say approximately an hour.

5 Q About an hour. So after that you had contact with this
6 cooperating source?

7 A No.

8 Q So you did not have any contact with this cooperating
9 source?

10 A None whatsoever.

11 Q So you don't know if there was any exchange of any
12 drugs or money because you did not ever see any drugs that
13 Detective Lackey had, correct, or took from this C.I., right?

14 A Correct. But I think Officer Lackey also was talking
15 to Commander Brown throughout this too.

16 Q You think that detective Lackey was communicating with
17 Commander Brown?

18 A Yes, ma'am.

19 Q Okay. What makes you think that sir?

20 A Because Detective Lackey had contacted Commander Brown
21 first. I started doing surveillance as far as following him
22 back and I'm pretty sure that Detective Lackey called Commander
23 Brown and filled him in on how the transaction went.

24 Q So as far as you know there were no drugs to test; yes
25 or no?

1 A Correct.

2 Q No, there were no drugs to test as far as you know?

3 A I said correct.

4 Q As far as you know you don't know how long Detective
5 Lackey knew this cooperating source, correct?

6 A That's correct.

7 Q As far as you know there are no communications between
8 Bizz or who they knew as Bizz and this cooperating source,
9 right?

10 A That's correct.

11 Q Okay. As far as you know there wasn't even a file set
12 up with this cooperating source, right?

13 A That's correct.

14 Q Now there was a record's check done, correct?

15 A To my knowledge, yes.

16 Q And that records check came back and it did not place
17 Bisnauht's address at Sandpiper Drive?

18 THE COURT: All we are dealing with here is
19 whether or not the affidavit is sufficient to
20 establish probable cause to search the residence.
21 What I see this affidavit says they got the call about
22 this from North Carolina. This officer went up there
23 from Officer Lackey and apparently dealt with Officer
24 Lackey in the past. Knows him to be trust worthy and
25 then this officer went up there and saw it and told

1 Brown about what he saw and then he went and told the
2 Magistrate what he saw and he got it on that basis.
3 So, this is is not a discovery exam.

4 Q Officer Ervin, tell me about how many feet you were
5 when you saw the transaction take place?

6 A Around may be 200, 200 yards.

7 Q Two hundred yards?

8 A Yes.

9 Q So you don't know exactly how many people were in
10 Bizz's car when he met with this cooperating source allegedly?

11 A I'd seen only one individual.

12 Q You only saw one.

13 A Because after the drug transaction he drove right by
14 me.

15 Q Do you know whether or Officer Lackey searched the
16 confidential informant, the cooperating source?

17 A No, I do not.

18 Q You don't know how many times Charlotte Mecklenburg
19 Police Department conducted controlled buys do you?

20 A No, ma'am.

21 THE COURT: All right. I appreciate it. I'm not
22 going to suppress it. I find that the affidavit and
23 the search warrant are valid and I'll allow the
24 product of that to come in over your objection.

25 MS. HAMILTON: Thank you, Your Honor.

1 THE COURT: The motion to suppress. All right.

2 MS. HAMILTON: Could we have Officer Ervin step
3 down?

4 THE COURT: All right. Assuming that, you know,
5 the testimony from the search bears out. But as far
6 as the search warrant itself is concerned I'm not
7 going to suppress the search warrant.

8 MS. HAMILTON: Thank you, Your Honor.

9 THE COURT: I'm not going to --

10 MS. BURRIS: Suppress the evidence.

11 THE COURT: Suppress the evidence. When it comes
12 up at this point anyway based on a bad search warrant.
13 I think the search warrant is sufficient at least at
14 this point. All right.

15 What else?

16 MS. BURRIS: Your Honor, my motion -- I am going
17 to go back to my motion to disclose the identification
18 of the confidential informant. Even based on the
19 officer's testimony as the officer indicated that he
20 does not even know, of course, had no contact with the
21 confidential informant. There is a case that says
22 where disclosure of an informant's identity or the
23 content of the informant's communication, is relevant
24 and helpful to defense of the accused or is essential
25 to a fair determination of a cause, the privilege must

1 give way. In these situations the trial Court may
2 require the disclosure and, if Government withholds
3 the confidential informant information dismiss the
4 action. That has been a case that South Carolina has
5 depended on. This is a Supreme Court of the United
6 States, Roviato versus the United States of American.
7 And South Carolina Supreme Court and other cases have
8 actually cited to Roviato indicating that the
9 confidential informant -- if the communication with
10 the confidential informant is relevant and helpful and
11 important to the defense of the case an identification
12 of the confidential informant must be disclosed.

13 Your Honor, we're asking for the State be made to
14 disclose the identification of the confidential
15 informant or as they called it because they were using
16 the language interchangeably. Charlotte Mecklenburg
17 Police Department was calling it a cooperating source.
18 York County Multi-Jurisdictional was calling it a
19 confidential informant. Respectfully, we would ask
20 for the State to have to disclose at least the
21 identification of the confidential informant; any
22 statements that the confidential informant may have
23 written; any government money, which according to
24 assistant solicitor she has the drug buy money, the
25 \$800. She just indicates that it is not relevant so

1 therefore she is not going to comply with my discovery
2 motion and she's not actually going to turn over the
3 government money. We would ask to disclose whether or
4 not the confidential informant or cooperating source
5 actually picked Mr. Bisnauth out of a line-up.

6 It is our position that the State must disclose
7 this information simply because the content of the
8 communication is the basis, and this control buy is
9 the basis of the search warrant affidavit that was
10 submitted to the Magistrate Court judge and for the
11 Magistrate Court actually finding probable cause. And
12 so we would ask for the State to be made to disclose
13 the identification of the confidential informant.
14 Obviously they they have more information then the
15 defense has. And indicated there maybe even drug
16 money that was recorded that was not turned over to
17 the defense in spite of the defense actually
18 requesting it three or four times.

19 MS. HAMILTON: Your Honor, the position is again
20 this is not material to this case. He is not charged
21 with the distribution. Additionally under State
22 versus Dupree -- and Your Honor, I have provided a
23 copy to defense. May I approach?

24 THE COURT: I appreciate the position but I am not
25 going to require disclosure.

1 MS. BURRIS: That's correct. So in that regards
2 then what we have is the failure to stop for a blue
3 light indictment, and so, because they are not allowed
4 to -- because it's not a part of the res gestae or
5 what we are going forward on October the 15th, then
6 the failure to stop for a blue light of course would
7 be -- the State shouldn't be allowed to go forward on
8 that indictment simply because it is not a continuing
9 events of what took place when the officer actually
10 went into the house on October the 15th.

11 THE COURT: I appreciate that but I think it's
12 going to be closely related to it, I believe. I don't
13 know. I just have to hear. I don't know the
14 circumstances. I am not sure about it. How did this
15 happen? Did they go -- how was it that he took off?

16 MS. HAMILTON: They were essentially trying to
17 execute the search warrant that they subsequently
18 executed two hours later. But they were with trying
19 to execute the search warrant on him which was on his
20 person.

21 THE COURT: He was there, saw the officers and
22 took off?

23 MS. HAMILTON: Yes, Your Honor and then they
24 subsequently were able to execute it at the house two
25 hours after that failure to stop because without him

1 present because he he had fled from them.

2 MS. BURRIS: Your Honor, I just want to make sure.
3 Of course, as you stated this is something -- I just
4 want to make sure there is no mentioning of the prior
5 -- by the officers any of the prior alleged
6 distributions that took place in the State of North
7 Carolina which is a different jurisdiction.

8 THE COURT: I agree.

9 MS. HAMILTON: Your Honor, we do not, again,
10 intend to introduce any of that information.

11 THE COURT: All right. I agree. So we are just
12 going to have testimony about the people that went to
13 the house to search and the fact that they saw him and
14 he saw them and he took off in the car and didn't stop
15 when they tried to stop him. And then they came back
16 later and searched the house and found this stuff.
17 All right.

18 MS. BURRIS: Well, I think the situation alleges,
19 Your Honor, they were on 77 and there was Mr. Bisnauth
20 traveling on 77 along with the alleged co-defendant,
21 LaShandra McMoore, and there are lots of cars on 77.
22 They initiated their blue lights is I believe the
23 evidence that they are going to try and present. They
24 initiate their blue light and their allegation is that
25 Mr. Bisnauth did not stop. Of course Mr. Bisnauth has

1 a different position.

2 THE COURT: All right. I can understand that. Do
3 you all have the dash cam video of the chase?

4 MS. HAMILTON: We do not, but we actually have two
5 officers that are testifying to this and then a
6 statement.

7 THE COURT: Okay. But you don't have a video?

8 MS. HAMILTON: No, we don't, Your Honor.

9 THE COURT: Why? Why is that?

10 MS. HAMILTON: It is the drug enforcement unit,
11 they don't have videos in their cars.

12 THE COURT: They don't do that. That's a shame.
13 All right. All right. Sounds like we are about ready
14 then.

15 MS. HAMILTON: Your Honor, I do have an objection
16 to one of the voir dire. I don't know if the defense
17 has handed up their voir dire to you.

18 THE COURT: Yes, I have it. Which one do you want
19 voice your strong objection to.

20 MS. HAMILTON: Well, for the sake of time.

21 THE COURT: I'm not going do 13. I don't do 13.

22 MS. HAMILTON: That's the one I was going to
23 object to.

24 THE COURT: Okay.

25 MS. HAMILTON: Additionally, six and seven I

1 there.

2 I would ask the clerk to swear the jury now please.

3 THE CLERK: Please stand and raise your right
4 hand. You shall well and truly try in true
5 deliverance make between the State of South Carolina
6 and the defendant at the bar, whom you shall have in
7 charge, and a true verdict give according to the
8 evidence and the law, so help you God. Please respond
9 by saying I will.

10 JURORS: I will.

11 THE COURT: All right. Thank you.

12 We have have the jury sworn now. As I said
13 earlier the foreperson's job is to preside over the
14 jury deliberations at the end of the case when you are
15 considering your verdict. His vote counts no more
16 than anybody else's vote in deciding this case, but
17 his job to get the discussion going, keep it on track
18 and to report to us when you have reached a verdict.

19 I asked that each of you have a note pad. Anybody
20 doesn't have a notepad? Everybody has a notepad and
21 pen. I do allow jurors to take notes during the the
22 course of the trial. Some people don't think that's a
23 very good idea. Some people think it may distract you
24 from what is actually being said and done from this
25 witness stand here between you and me during the

1 presentation of the testimony and evidence to you. If
2 you do take notes, do not allow your note taking to
3 distract you. Notes are to be used only as memory
4 aids. Notes are not entitled to any greater weight
5 then the recollection of the impression of each juror
6 as to what the testimony or evidence actually was.
7 Those will be your notes and your notes only. No one
8 will looking at them, checking on them to see what you
9 wrote down or didn't write down or whatever. Those
10 are your notes and your notes only. At the conclusion
11 of the trial I would ask you to tear out any notes you
12 may have made. Take them with you and tear them up.
13 Whatever you want to do. As I said, those are your
14 notes and your notes only. Notes are not entitled to
15 any greater weight then the recollection of the
16 impression of each juror as to what the testimony or
17 evidence actually was.

18 The oath that you just took was an oath whereby you
19 sworn you would decide this case based on the
20 testimony and the evidence that will be presented to
21 you from this witness stand and my instructions to you
22 on the law. You are finders of the judges of the
23 facts of this case. I don't have anything to do with
24 the facts. My job during the trial is to make sure
25 that the parties follow the rules. We have certain

1 rules of evidence, the rules of procedure that the
2 parties are suppose to follow during the presentation
3 of the testimony and the evidence to you. My job is
4 to make sure that they follow those rules. Perhaps
5 during the trial one or more of the attorneys will get
6 up and say something like, Your Honor, I object and
7 hopefully have some reason as to why he or she objects
8 to some question or answer that has been given. When
9 the lawyers do that they're talking to me. They are
10 not talking to you. They're talking to me. They are
11 calling it possible violation of one of these rules to
12 my attention. Don't you concern yourselves with those
13 objections or how I may rule on those objections.
14 Whether I overrule it sustain it or whatever. Because
15 it has absolutely nothing to do with your job in this
16 case, which is to be the finders or the judges of the
17 facts of this case. Unless the answer to the
18 objection -- unless my ruling on the objection is
19 obvious to me at the time that it's made, I will
20 probably send you from the courtroom. I'm not trying
21 to hide anything from you by doing that. It's just
22 that we found over the years that it's the easiest and
23 the best way for me and the lawyers to talk about the
24 rule. Let me make a decision. Let me hear from them
25 and then let me make a decision and bring you back in.

1 and go on with the trial of the case. I'm not trying
2 to hide anything from you. It's just that we found
3 that's the easiest and the best way for me and the
4 lawyers to be able to freely discuss those rules, let
5 me make a decision and go on with the presentation of
6 the facts -- the evidence and the facts to you.

7 Now, how are we going to go about learning about
8 this case. First, I will allow an attorney from each
9 side to make an opening statement to you. These are
10 not arguments. The arguments will come at the
11 conclusion of the case. But I do allow each side to
12 introduce themselves further, tell you what the State
13 claims in regard to this case and any response to that
14 claim by Mr. Bisnauth. After we have had those
15 opening statements then we will have the presentation
16 of the testimony and the evidence.

17 The State will call its witnesses. They have the
18 burden of proof in this case. They have to prove the
19 facts to your satisfaction to convince you of his
20 guilty beyond a reasonable doubt. If the State
21 doesn't do that then he is entitled to a verdict of
22 not guilty. Really the question that you will answer
23 when you go back into the courtroom -- go back into
24 the jury room at the conclusion of this case is really
25 just that; has the State met the burden of proof. So

1 the State goes first. Presents all the evidence that
2 they wish you to consider in this case and then we
3 switch and Mr. Bisnauth has the opportunity to present
4 any evidence that he wishes you to consider. But as I
5 said, the burden of proof is on the State throughout
6 the trial regardless, so keep that in mind. That's
7 the way we go about learning about this case.

8 After everybody has had a full and fair
9 opportunity to present any evidence then we will have
10 summations and arguments from the attorneys. They
11 will try to persuade you as to what version of the
12 facts you should take of the case. After that I will
13 discuss with you more fully what your duties and
14 responsibilities are as a jury in this case and the
15 law that you may apply in this case and then you go to
16 the jury room for you to deliberate and you give us
17 your decision. You will answer that question, has the
18 State met the burden of proof in this case. Keep in
19 mind what your job is and what you will do at the
20 conclusion of this case.

21 Miss Hamilton, would you like to make an opening
22 statement?

23 MS. HAMILTON: Yes, Your Honor. May it please the
24 Court.

25 THE COURT: Go ahead.

1 MS. HAMILTON: Thank you.

2 Good afternoon ladies and gentlemen. We are here
3 today because the accused, Mr. Shawn Bisnauth, is
4 charged with multiple crimes. The judge did explain
5 those crimes to you at the beginning when you all were
6 being sworn. But again, he is charged with possession
7 with intent to distribute cocaine, trafficking
8 methamphetamine, trafficking heroin and failure to
9 stop for a blue light. Will go over the facts and
10 then I will talk about the law. I will give you some
11 examples to try and explain the law.

12 So, the facts of the case are on October 15, 2015,
13 officers were attempting to execute a valid search
14 warrants on the accused, Mr. Shawn Bisnauth. They
15 were following Mr. Bisnauth down Cherry Road and you
16 will hear this from officers. He stops at a gas
17 station. They see his face while he is pumping gas.
18 They continue to follow him. He gets on I-77 going
19 northbound towards Charlotte, North Carolina.
20 Multiple officers get behind the defendant. You will
21 hear from officer -- Sergeant Ervin today from the
22 York County Mult-jurisdiction Drug Enforcement Unit
23 that he got behind the defendant -- sorry, Mr.
24 Bisnauth. He activated his blue lights and siren to
25 try and initiate a traffic stop on his vehicle, which

1 is a Toyota. Mr. Bisnauth did attempt to try to pull
2 over a little bit showing that he did see the
3 officers, but then darted back onto the highway around
4 160 on 77 that exit and starts a chase. And in
5 Sergeant Ervin's words he will say he dusted him
6 upwards of 100 miles per hour fleeing into North
7 Carolina. After that officers attempted to go back to
8 his residence, at Sandpiper Drive within York
9 County to try and find him and execute this search
10 warrant. Officers wait there. About two hours later
11 you will hear that Mr. Bisnauth's girlfriend, who also
12 lives at this residence with him, shows up in her
13 Mercedes and officers attempt to execute the search
14 warrant. They go into the residence and they search
15 that residence at Sandpiper Drive. Within that
16 residence they find 3.83 grams of cocaine within Mr.
17 Shawn Bisnauth's bedroom, master bedroom, and in the
18 closet there is a Tupperware container containing
19 14.42 grams of heroin and 22.9 grams of
20 methamphetamine.

21 In addition to all the drugs that were found
22 within his bedroom, officers continue to search that
23 residence. They found multiple other things including
24 two heat sealing machines, multiple cellphones,
25 packaging materials throughout the home, a book that

1 has a hidden compartment in it. Looks like a book.
2 You will see pictures presented by officers. You open
3 it and there's a hidden compartment in that book.
4 Found empty boxes for digital sales. Found empty
5 baggies that had a white powder inside of it. All
6 within the defendant's residence.

7 You will also hear from a Magistrate judge today
8 who actually had screened Mr. Shawn Bisnauth for
9 counsel. He will testify that the defendant -- or Mr.
10 Bisnauth, did admit that he lived at Sandpiper
11 Drive. That was his residence.

12 Lastly, you will hear from Cynthia Mitchum. She is
13 our forensic chemist here at the York County Sheriff's
14 Office. She will testify that she tested the drugs
15 that were found at Mr. Bisnauth's home and they did
16 test positive for the drugs that we are stating;
17 methamphetamine, heroin and cocaine. She will also
18 give you the weight. The weights are very important
19 in this case because I know you hear the word
20 trafficking and I think, oh, it's like the movies when
21 you see this sensational, glamorous vehicles
22 trafficking large amounts of drugs in trucks across
23 the boarder. Trafficking. Moving drugs. That's not
24 what it is. It is mere possession. You possess that
25 specific weight of a drug. That's what trafficking

1 is. So when Miss Mitchum will testify she is
2 testifying to the weight that makes this trafficking.
3 Possession of this amount of drugs.

4 Now, I'm going to explain to you all the law in
5 this case. I am going to start with failure to stop
6 for a blue light and the requirements that the State,
7 as the judge stated, we have the burden to prove. So
8 I am going to state the elements in which I would ask
9 that you, once we present the evidence, keep in mind
10 these elements that the State has to prove. For
11 failure to stop for a blue light there are four
12 different elements we have to prove. We have to prove
13 that the defendant was driving a motor vehicle, one.
14 He was driving that motor vehicle on a South Carolina
15 highway road or street. We are saying he was on I-77,
16 which is highway in South Carolina before the North
17 Carolina border. The defendant was signaled by law
18 enforcement by means of siren or flashing light to
19 stop and he did not.

20 Next crime is intent to distribute cocaine. This
21 requires three elements. The first, is this was a
22 controlled substance that the defendant, or Mr. Shawn
23 Bisnauth, possessed. This controlled substance in
24 this case being cocaine. Two, the defendant had
25 possession.

1 MS. BURRIS: I am going to object, Your Honor.
2 The solicitor insistently refers to Mr. Shawn
3 Roseberry Bisnaught as defendant.

4 THE COURT: I appreciate that. Try to remember to
5 refer to him as Mr. Bisnauth. He is the defendant.
6 There is no doubt about that. So go ahead.

7 MS. HAMILTON: I'm sorry, Your Honor.

8 There are two types of possession, ladies and
9 gentlemen. There is constructive possession and there
10 is actual possession. Actual possession is when you
11 physically have contact with that item. It is on your
12 hand like a ring. Physical possession. But in this
13 case what we are dealing with is constructive
14 possession. Constructive possession is the type which
15 there is no physical contact with an object but the
16 person has knowledge of its presence and they have
17 that ability to exercise control over that item. And
18 example of that is very similar to this case. Say I
19 have a necklace at my house. I am here at work. That
20 in the necklace is at my house in a jewelry box. I
21 know it's there. At any time, if I can leave work, I
22 can go there, grab that necklace, exercise control of
23 it and put it on on me. I still have control of that
24 necklace since it is in my home and I know of its
25 presence. That is constructive possession. Another

1 example is you have your car. You are not touching
2 that car but it's in your driveway. You know of its
3 presence and if you want to you can walk outside and
4 get in your car. It's your vehicle. That's another
5 example of constructive possession and as I stated
6 that's what we're dealing with in this case.

7 I also want you to keep in mind that possession can
8 be joint. More than one person can possess an item.
9 You will hear about that in this case.

10 Now, the third element of possession with intent to
11 distribute is the defendant possessed the cocaine with
12 the intent to distribute it. Now there is inference
13 under the law of this state that possession of one or
14 more grams of cocaine is gives rise to the inference
15 that possession was with the intent to distribute it.
16 This means that you can infer that the intention of
17 Mr. Bisnauth was to distribute the drugs that were
18 found since the weight of that particular drug in this
19 case, cocaine, is over one gram. In this case you
20 will hear from Miss Mitchum that total weight was 3.83
21 grams.

22 In regards to his intention to distribute these
23 drugs you can also take into account items that were
24 found in the home that are evidence of distribution;
25 packaging materials, boxes from his digital scales.

1 Also take into account the heat sealing machines and
2 you will hear from officers as to why that is relevant
3 in the distribution of drugs. So that is possession
4 with intent to distribute.

5 The next two are trafficking. The first one is
6 trafficking heroin over 14 grams. In this case we are
7 dealing with 14.42 grams. And as I stated that
8 trafficking is possession. First element, actual or
9 constructive possession. As I stated it is
10 constructive possession. And two, of more than 14
11 grams. That is the second element. You will hear
12 from Cynthia Mitchum as to the weight which I stated
13 is very important in this case because that's what
14 makes it trafficking, the weight of the drug that he
15 possessed.

16 And the third crime, the third drug crime is
17 trafficking methamphetamine over ten grams. Again
18 possession is the first element. Constructive
19 possession is what we will argue, and two, is more
20 than ten grams. The defendant in this case possessed
21 22.95 grams of methamphetamine.

22 Now, also I want you to take into account the
23 knowledge in this case, of Mr. Shawn Bisnauth. Were
24 drugs -- contraband material specifically, but being
25 drugs, are found on the premises under the controlled

1 of the accused, Mr. Shawn Bisnauth in this case. This
2 was found in the home of Sandpiper Drive. That
3 is his home. This fact in and of itself gives rise to
4 an inference of knowledge and possession. So I want
5 you all to keep that in mind throughout this trial.

6 Now, your role today is very important. You all
7 are fact finders in this case. You will hear the
8 facts throughout this trial and you take those facts
9 into that jury room and will you deliberate those
10 facts. I want you to listen to the facts presented
11 to you and if you believe that you are firmly
12 convinced of the defendant's guilt in this case, I ask
13 that you find a verdict that speaks the truth, and I
14 will stand before you and ask you at the conclusion of
15 this case that you find Mr. Shawn Bisnauth guilty of
16 possession with intent to distribute cocaine,
17 trafficking methamphetamine, trafficking heroin, and
18 failure to stop for a blue light.

19 Thank you.

20 THE COURT: All right, Miss Burris Alcide.

21 MS. BURRIS: Thank you, Your Honor. May it please
22 the Court.

23 Your Honor, our beloved colleagues and ladies and
24 gentlemen of the jury. Back in high school -- I
25 actually went to high school locally. I went to Rock

1 Hill High School. And back in high school I had a
2 very close friend that I grew up with and at at that
3 time my father had allowed me to drive the Toyota
4 Celica to school. You know how exciting it is to be
5 allowed to drive. When your parents finally trust you
6 to drive. And so one day this close friend and I we
7 got in the car. We left home. I actually picked her
8 up and we went to school. And once we arrived at
9 school because we had different classes we went in two
10 different directions. But I received a phone call
11 later on that day while we were in school and I was
12 being questioned about whether or not I knew that my
13 friend had a gun in the car and that she was in my car
14 with a gun. I was interrogated by the administrators,
15 by my parents -- which was much worse then the
16 administrators -- by her parents, and they wanted to
17 know did you know that she was in your car with a gun.
18 And I really did not know. I had no knowledge
19 whatsoever. Another thing I didn't know is I did not
20 know that she endured bullying at school and that's
21 why she had actually taken the gun to school. I did
22 not know that she had any weapons in my car. We had a
23 normal day from her home and my home to school. She
24 did not tell me the day before. She didn't tell me
25 when we arrived at school. I did not know she was

1 being bullied. Had no clue that she had a gun in the
2 car. No clue. And I didn't know the story as to why.

3 Ladies and gentlemen of the jury, some times
4 there is more to the story than what's presented.
5 There is more to the story than what's presented.
6 Remember that. There is more to the picture then that
7 which you see with your any naked eyes and your human
8 eyes. When looking at the big picture in this case,
9 instead of the State presenting everything and showing
10 every single bit of of evidence and presenting the
11 testimony of all of the witnesses who were there on
12 October the 15, 2015, the State wants to show you bits
13 and pieces of the picture. Spaghetti noodles to try
14 to fit their theory of the case. But you deserve the
15 big picture. You deserve to hear from all the
16 witnesses that were there on October 15, 2015. You
17 deserve to see everything. You deserve it.

18 Have you ever been in a situation where what is
19 presented to you is not the full and complete picture.
20 You have half of the picture. Or based on your
21 limited exposure you prejudge a situation based on
22 your lack of knowledge or lack of exposure to
23 something. Have you ever been in that situation? You
24 draw a conclusion in your mind but your conclusion is
25 inaccurate based on the information that you do not

1 have or your limited exposure to a situation and your
2 perception is off and the inferences have led you to
3 the wrong conclusion. I have an example. One night I
4 was in Target and I have a 14-year old stepdaughter
5 and I have three-year old biological daughter and this
6 lady walked up to me and she says -- my daughter often
7 wears Disney characters and gowns and I just let them
8 where them because you pick your battles -- and this
9 lady walked up to me and she said your granddaughter
10 sure is cute. And I looked at her and said, well,
11 this is my daughter. But she had drawn the wrong
12 conclusion. She looked at my 14-year old and she
13 looked at the three-year old and at that time she was
14 two, and she said your granddaughter sure is cute.
15 And she assumed that it was my granddaughter versus my
16 daughter. She looked, she had the wrong perception,
17 she misjudged the situation and in her mind she
18 arrived at the wrong conclusion.

19 Let me bring this closer to home for you. Many of
20 you recall that in 2016 when Clemson University went
21 to the National Championship and they lost to Alabama
22 and then the next season in 2017 Clemson University
23 fought their way back to the National Championship and
24 beat Alabama. Every week depends on, whether you're
25 Clemson or Game Cock you get together. You go to

1 someone's home to hang out, to watch the game because
2 you are following to see if Clemson was going to beat
3 Alabama. That was a big game. And so you followed
4 and you went and hung out whether it was at a friend's
5 house, old colleagues, your family members, and you
6 watch the game. You watch the game. You know that
7 spot that you go to just to watch the game when there
8 is a big game going on. After Thanksgiving, that
9 common spot where you may find yourself spending the
10 night. Leaving some of your personal belongings
11 there. It could be your mom's house. It could be
12 your friend's house. But that common spot where you
13 hang out and you visit at your friend's house.

14 We're here here today because on October 15, 2015
15 officers saw Shawn Roseberry Bisnauth traveling on
16 I-77 and they got behind him. Officers are alleging
17 that Mr. Shawn Roseberry Bisnauth did not stop for
18 them that day. Officers went to Sandpiper Drive,
19 which is the home of LaShandra McMoore, who is a
20 co-defendant charged in this case. Sandpiper
21 Drive. And when they were at this address of
22 Sandpiper Drive who pulls up, the co-defendant in the
23 case, LaShandra McMoore. LaShandra McMoore, she pulls
24 up. Officers are there at Sandpiper Drive, and
25 who's in the car with LaShondra McMoore the

1 co-defendant, there's a guy named Neco Tucker. He was
2 in the car with LaShondra McMoore. And as the
3 officers are at this address of Sandpiper Drive,
4 LaShondra McMoore as she is about to key into the
5 house who opens the door of Sandpiper Drive, her
6 brother; Antonio Vasquez, in the residence of
7 Sandpiper Drive. And in the residence enough to open
8 the door and he let the police into the home.

9 What was Lashonda McMoore driving when she pulled
10 up at her residence? She was driving her 2007
11 Mercedes Benz. And you are going to hear testimony
12 that she was driving a Mercedes Benz, but she used
13 Shawn Roseberry Bisnauth to help her with the Benz.
14 She had this friend guy who was with her who was
15 sticking closer than a brother, Neco Tucker. They
16 pulled in together and her brother was at this
17 Sandpiper Drive.

18 You are going to hear testimony that when officers
19 went in to the home to execute the search warrant they
20 found drugs on LaShondra McMoore's brother, Antonio
21 Vasquez. They found marijuana on him. They found
22 drugs in the master bedroom closet, but also in other
23 bedrooms of Sandpiper Drive, the home of Lashonda
24 McMoore. There was an I-pad, a tablet, and paper
25 work. And we will tell you, Mr. Bisnauth had some

documentation. He had some mail over there. But on the mail you know whose address it had on it, Mr. Bisnaught's address; Tributary Drive in Rock Hill South Carolina. It had his address. There were two letters that had his address on it. You also going to see evidence there was some medication that he left over to his girlfriend's place in regards to his diabetes. You are going to see that. We want to show you the full picture of what took place on October the 15th. In the closet of the home of this thirty-year old, LaShondra Annette McMoore, someone whom Mr. Bisnaught wrongfully -- as my parents always told me, be careful who you associate yourself with. Be careful who you associate yourself with. There was a plastic container and there were drugs found in that plastic container.

We are here to tell you the whole story. You are also going to see a photo. I call it a night life photo. And in that photo you are going to see a picture of Mr. Shawn Roseberry Bisnauth, Lashonda McMoore and her brother, Antonio Vasquez in the middle.

This was a home of what we call ill repute is what my grandmother use to call it. And there was a woman name LaShondra McMoore who ran it as king pin drug

1 dealer and as a result of somebody who is trying to
2 help her out and wanted to associate himself with the
3 wrong person he's sitting here right now facing
4 extremely serious charges because of this woman that
5 he associated himself with. This woman who when she
6 came to her home on October 15th she had \$2,003 in her
7 purse. I don't know who carries that much money
8 around with them. But Lashonda McMoore and her
9 brother, Antonio Vasquez, and her other guy friend,
10 Neco Tucker, they ran this house.

11 What was Mr. Bisnaught driving? You are going to
12 hear testimony he's driving his elderly uncle's 2007
13 Toyota Camry. But trying to look out for this young
14 lady so she can have the perception and image to fit
15 the direction in which she desired to go. And because
16 he wanted to associate himself with the wrong female
17 who was heavily involved, obviously, who lived at
18 , had her kids at , drove a Mercedes to ,
19 had a key to , carried thousands of dollars in her
20 pocketbook, now has these charges as the solicitor
21 stated to each one of you. The real story, ladies and
22 gentlemen of the jury, is that LaShondra McMoore, is
23 the owner of these drugs. She's the king pin of these
24 drugs, if there are such thing. She stored these
25 drugs in her closet. She kept people around her like

1 her brother who also owned and stored the drugs at
2 Sandpiper Drive as well as Neco Tucker. And you
3 are going to hear circumstantial evidence that they
4 are all from the same area and they came down here.
5 They are all from Virginia. Not my client. Antonio
6 Vasquez, LaShondra McMoore and Neco Tucker, they are
7 all from Virginia but they live in Charlotte and they
8 came and relocated here. She was the one that owned
9 and stored these drugs, and her brother and Neco
10 Tucker.

11 Members of the jury, LaShondra McMoore and Antonio
12 Vasquez, they are playing what I call the drug game of
13 fame. Do not be blind sided by what's going on here
14 today. Do not be blind sided by the fact this young
15 man is sitting beside me today. He wears a robe
16 called the presumption of innocence. Do not be blind
17 sided. You deserved to see it all. You deserve to
18 see the full picture.

19 I am not saying that Mr. Shawn Roseberry Bisnauth
20 wasn't at his girlfriend's house hanging out. Had
21 personal belongings there. I'm not saying that. But
22 she was the one who ran this home. That was her
23 master bedroom closet and she and Mr. Vasquez, her
24 brother, owned and stored the drugs along with any
25 Neco Tucker and she kept these men around her to keep

1 her imagine covered.

2 Shawn Roseberry Bisnauth associated himself with
3 someone whom he should not have. He loved someone who
4 was not good for him. Someone whom he and his family
5 tried to take care of and provide for but only to end
6 up here sitting here facing serious charges. Be
7 careful who you associate yourself with. My dad use
8 to always tell me be careful who you fall in love
9 with. Make sure that they are of good character and
10 they are not using you and your family to provide
11 financial, which is what Lashonda McMoore was doing,
12 using Shawn Roseberry Bisnauth to create an imagine
13 for she and her children.

14 As we go throughout this trial I want you to think
15 about some very, very important questions. What do
16 you see in the photos that will be presented to you by
17 the State? What do you see in the photos? When
18 Lashonda McMoore came to Sandpiper Drive did she
19 have a key to her home? Of course she did. It was
20 her home. How much money did she have on her? How
21 much money did Shawn Roseberry Bisnaught have on him?
22 What was she driving? What was he driving? Where was
23 she and Neco Tucker coming from? Who is Neco Tucker
24 who was in the car with Lashandra McMoore and pulled
25 up at her home Sandpiper Drive? What is his

1 relationship to her? How long had Neco Tucker been
2 staying at this address ? How long had he been
3 staying with his friend, Lashonda McMoore? Where is
4 Antonio Vasquez, her brother, who was also in the
5 house. When the police came he opened the door
6 because he lives there with Lashonda McMoore.

7 It's very important for you to pay attention to the
8 details as this case unfolds and the testimony as this
9 case unfolds. Is Antonio Vasquez here today to
10 testify so you could get the details of the story of
11 what really happened that day? Is Neco Tucker here
12 today? Is Lashonda McMoore here today to tell you the
13 whole story not bits and pieces of the story.

14 You will hear testimony from the officers and as I
15 always tell my assistants I can exchange this suit and
16 put your suit on and one of them is in the military
17 and I can take this suit off and I can put your
18 military uniform on but it doesn't change the fact
19 that I'm human, and when I say to you listen intently
20 to the testimony from the officers remember they're
21 human. They make human errors and they make human
22 mistakes. But what I'm asking you is on that October
23 15, 2015, they made a rush to judgement. It doesn't
24 change the fact that they have a title; officers. I
25 can say believe me more because I have a title and I'm

1 an attorney. No, I am a human just like these
2 officers are human and they rushed to judgement
3 without fully and thoroughly investing the case and as
4 a result of their rush to judgement and human error
5 and mistake Mr. Shawn Roseberry Bisnaught is here
6 facing very serious charges.

7 I want you to pay attention to all the moving
8 parts. You are all judges of the facts. Your Honor,
9 with dignity and respect, Your Honor, is a judge of
10 the law and he is clothed with a robe of justice.
11 Imagine yourself having on robes because you're simply
12 the judges of the facts. Mr. Bisnauth wears a robe
13 and his robe he's clothed with the presumption of
14 innocence. He has a constitutional right.

15 Now you heard Your Honor -- let me back up. Our
16 constitution guarantees to every citizen protections
17 and we're very fortunate in American that we rely
18 heavily on our American jury system. And as you saw
19 me as I was carefully and attentively selecting
20 jurors, we have confidence dense in the American jury
21 system just like we have is confidence in each one of
22 you that you're going to listen attentively and insure
23 that Mr. Shawn Roseberry Bisnauth has a fair trial.
24 Make the State prove to each one of you beyond a
25 reasonable doubt that Mr. Bisnault is guilty of the

1 serious drug charges in which he is facing. Any doubt
2 that causes any one of you to hesitate to act, to find
3 him guilty, is reasonable doubt and they have to prove
4 to you beyond a reasonable doubt. Beyond any doubt
5 that will cause any person to hesitate to act you must
6 find him not guilty.

7 In some cases of course standard of proof is
8 preponderance of evidence. More likely then not.
9 Doesn't matter if we're talking one hundred dollars or
10 a million dollars. It's more likely then not. But
11 when we talk about our American criminal legal justice
12 system, you know that Mr. Bisnauth does not have to
13 prove his innocence. He does not have to prove his
14 innocence but the State must prove to each of you
15 beyond a reasonable doubt, any doubt that will cause
16 any reasonable person to hesitate to act, is
17 reasonable doubt. And if the State can not prove to
18 you each element of the crime and the charges that he
19 is facing beyond a reasonable doubt you must find that
20 he is not guilty. I am very confident that you will
21 carry out your duty. I'm very confident. I believe
22 as gate keepers of justice and judges of the facts you
23 will hold the State accountable for proving to you
24 beyond a reasonable doubt and I am confident that
25 after the presentation of the State's case and their

1 witnesses and the testimony that will you find that
2 Mr. Bisnauth is not guilty. Guilty of association
3 with the wrong person, but he's not guilty of owning
4 or storing drugs in a home in which Lashondra McMoore
5 lived in when his family was trying to help this young
6 lady.

7 Let's us begin this journey towards justice. I
8 thank you so much for listening attentively to my
9 closing. What I say is not evidence. What the
10 assistant solicitor says is not evidence but I ask
11 that you will listen attentively to the testimony and
12 find a verdict that is speaks the truth.

13 Thank you so much.

14 THE COURT: Solicitor call your first witness.

15 MS. HAMILTON: Thank you, Your Honor. The State
16 calls Sergeant Ervin.

17 MS. BURRIS: Your Honor, if we may approach.

18 RAYFORD ERVIN JR., called as a witness, having
19 been duly sworn by The Clerk, was examined and
20 testified as follows:

21 (WHEREUPON, there was an off the record
22 discussion.)

23 THE COURT: Jurors need to go to jury room.

24 (WHEREUPON, the jurors leave the jury room.)

25 THE COURT: The jury is out. The door is closed.

1 What is it?

2 MS. BURRIS: Thank you, Your Honor. You ordered
3 during pretrial that the officers remain under
4 sequestration order and that the witnesses -- the
5 State's witnesses would be separate, of course
6 allowing the case agent to remain in the courtroom.
7 It is my understanding that Mr. Burkhart is the
8 assigned case agent.

9 THE COURT: Generally there is one that stays in.
10 So who do you want to stay in?

11 MS. HAMILTON: Officer Burkhart.

12 THE COURT: Okay, is was just for the opening
13 statement. Now anybody else that is going to testify
14 needs to leave the courtroom.

15 MS. HAMILTON: They are out and sequestered.

16 THE COURT: All right. Bring the jury back in.

17 (WHEREUPON, the jury enters returns.)

18 THE COURT: All right. We have the jury back with
19 us and everybody else is present that needs to be here
20 and the witness has been sworn. Tell me your name.

21 THE WITNESS: Rayford Lewis Ervin Jr.

22 THE COURT: All right. Go right ahead. You may
23 examine the witness.

24 MS. HAMILTON: Thank you, Your Honor.

25 DIRECT EXAMINATION

1 BY MS. HAMILTON:

2 Q Good afternoon. Could you please state your full name
3 for the records?

4 A Rayford Lewis Ervin Jr.

5 Q And what is your occupation?

6 A I am a police officer.

7 Q And what type of work do you do in your position?

8 A I do narcotics investigation. Also supervisor of the
9 the York office?

10 Q York office or what?

11 A Of Fort Mill.

12 Q And is that for the York County DEU.

13 A Yes, ma'am.

14 THE COURT: What do these initials stand for.

15 THE WITNESS: York County Mult-jurisdictional
16 Enforcement unit.

17 THE COURT: Okay.

18 Q How long have you been employed for the York County
19 Drug Enforcement Unit?

20 A Right at 19 years.

21 Q Were you employed in your present capacity on the early
22 morning of October 15, 2015?

23 A Yes, ma'am.

24 Q Okay. And I would like to draw your attention to that
25 specific morning. What were you doing at around eight a.m. of

1 October 15, 2015?

2 A We were conducting a surveillance of Sandpiper
3 Drive, Rock Hill, South Carolina which is in York County, in
4 reference we had a search warrant for the residence.

5 Q Okay. Can you please describe what happened after the
6 surveillance?

7 A Once we set is up surveillance we got to watching the
8 residence. I drove by. I'd seen Mr. Bisnauth standing in the
9 yard. I turned around and went back out and set up. A short
10 time later I observed a grey Toyota followed by a black Mercedes
11 leave. They left the area. Went up to take a left on Cherry
12 Road and stopped at a service station.

13 Q And is that service station and that residence you
14 stated, Sandpiper Drive is that in York County?

15 A Yes, ma'am.

16 Q Okay. So you see them at the service station. What do
17 you see at that time happen?

18 A I observed Mr. Bisnauth get out of the vehicle. He
19 pumps some gas and then after a short period of time we'd seen
20 both vehicles exit the service station going north on Cherry
21 Road which Mr. Bisnauth was in the Toyota. I guess his
22 girlfriend was in the Mercedes. They got in the far right lane
23 on Cherry Road headed north then exited onto I-77 north.

24 Q And do you see the person in the courtroom today who
25 you saw get out of the car and get back in that Toyota Camry?

1 A Yes, ma'am.

2 Q And the same person that you saw at Sandpiper
3 Drive?

4 A Yes.

5 Q Could you point him out for?

6 A The man right there.

7 Q And what shirt is he wearing?

8 A He has got the light blue shirt on.

9 Q Going back to where they are get 77 could you please
10 tell me what happens at that point?

11 A Once we get on 77 we get in the number one lane. We
12 are probably running about I would say --

13 Q Sorry to interrupt. What is the number one lane?

14 A Number one lane is the fast lane. The one closest to
15 the wall on the interstate. Once we got to going I pulled up
16 behind him. I initiated my blue lights and siren on my
17 undercover truck, which at the time both vehicles started to
18 veer to the right. The Mercedes veered first. So I was going
19 to go by her to get up to Mr. Bisnauth which at that time she
20 came back over and then each time that he would go over she
21 would go over. And I was trying -- like 8:15, 8:30 in the
22 morning north is pretty much like a parking lot. It's a lot of
23 of cars there. It was a little bit congested there and finally
24 Officer Jenkins who was the vehicle behind me was able to get
25 around my vehicle, the vehicle that was following and get behind

1 Mr. Bisnauth and once they got to open road he dusted me.

2 Q Okay.

3 THE COURT: I'm sorry, he what?

4 THE WITNESS: He dusted me.

5 Q What does dusted mean?

6 A He walked off and left me.

7 Q How fast was he going at this point?

8 A Probably around 100. A little bit over 100 miles an
9 hour.

10 Q How did he get up to that speed with that kind of
11 traffic?

12 A Like I said, once it was kind of congested when it
13 first started and we finally got by the congested traffic with
14 some open road and he just took off.

15 Q And when you stated that you were in your undercover
16 vehicle and you initiated your lights. Do you have sirens on
17 your vehicle?

18 A Yes, ma'am, both blue lights and siren.

19 Q Okay, and where did you attempt to stop him? When did
20 you initiate those blue lights and siren?

21 A It is around Highway 160 exit on 77 north.

22 Q And that's in South Carolina?

23 A Yes, ma'am and also in York County.

24 Q And Officer Jenkins you stated, did he have his lights
25 and siren on?

1 A Yes, ma'am.

2 Q Do you know what happened after you lost sight of Mr.
3 Bisnauth on that highway after he dusted you into North
4 Carolina?

5 A Him and Officer Jenkins continued on 77 north and I
6 think once they got into North Carolina Officer Jenkins lost
7 him.

8 Q Did anything happen next or is that the end of your
9 portion of this investigation?

10 A We circulated the area a little bit trying to locate
11 him. See if he maybe he pulled into a parking lot or something
12 like that and we never located the vehicle so we all came back
13 to Rock Hill.

14 Q What happened when you came back to Rock Hill?

15 A That's when we all set up surveillance on
16 Sandpiper Drive.

17 MS. HAMILTON: Beg the Court's indulgence, Your
18 Honor.

19 Q I do want to go back. I need to clarify this. What
20 were you all attempting to do when you were all were pulling him
21 over by putting on those blue lights and siren?

22 A We were attempting to go get him to stop because we had
23 a search warrant for him and the residence.

24 Q Okay. And you are were trying to execute it at that
25 time?

1 A Yes, ma'am.

2 Q Please answer any questions the defense may have.

3 Thank you.

4 A Yes, ma'am.

5 CROSS EXAMINATION

6 BY MS. BURRIS:

7 Q Officer Ervin, now it's your testimony that Mr.
8 Bisnauth was actually driving a Toyota?

9 A Yes, ma'am.

10 Q Okay?

11 Q And Miss Lashandra McMoore was actually driving a
12 Mercedes?

13 A Yes, ma'am.

14 Q And at one point it sounds like what you are telling
15 this jury was that Lashandra McMoore is actually trying to block
16 you because she actually got in front of you, isn't that right?

17 A She was in front of me the whole time.

18 Q In front of you the whole time. And in fact you just
19 testified that she kind of slowed down to sort of like stop from
20 you traveling, right?

21 A She slowed down to try and keep me from getting around
22 because of the congested traffic which once that happened
23 Officer Jenkins was able to get around to get behind Mr.
24 Bisnauth.

25 Q So basically you were driving and she slows her car

1 down and she is in front of you so you can't actually get around
2 her, right?

3 A No, ma'am, but I was trying to but the traffic was too
4 thick right there.

5 Q Too congested?

6 A Yes, ma'am.

7 Q Okay, so traffic was too congested. She's in front of
8 you in her Mercedes and you think that she knew you had blue
9 your lights on?

10 A Oh, I knew she knew I had blue lights and siren on. He
11 knew I had blue lights and siren on.

12 Q Okay, about how far was he actually from Lashondra
13 McMoore?

14 A When I first activated my blue lights probably two car
15 lengths.

16 Q Two car lengths. Okay. And she got behind -- got in
17 front of you basically which kind of slowed your travel down,
18 right?

19 A She is already in front of me.

20 Q In front of you, okay.

21 A I was behind her. I turned my blue lights and siren on
22 to get her to move out of the way so I could get to him and pull
23 him over.

24 Q And did she actually move out of the way?

25 A She started over, he started over and then he come back

1 and she come back.

2 Q Okay. Okay. Now, you just testified just now that of
3 course the traffic was congested. You said a little bit
4 congested. So once you hit 77, and you are going right this of
5 course you have Fort Mill. It's 8:50 in the morning, right?

6 A Around 8:30, 8:15.

7 Q 8:15, 8:30 in the morning, right?

8 A Yes, ma'am.

9 Q And you guys are on 77, right?

10 A Yes, ma'am.

11 Q Okay. And around this time you just testified that Mr.
12 Bisnauth actually -- let's talk about how congested the traffic
13 was. Was it standstill?

14 A No, ma'am. I mean the traffic was still flowing. It
15 probably 45, 50 miles an hour.

16 Q Okay, at some point you indicate that he actually went
17 in the emergency lane?

18 A I never indicated that. I did not see that.

19 Q Okay, so you did not actually see Mr. Bisnauth actually
20 travel in the emergency lane?

21 A That was probably after I lost sight of him.

22 Q After you lost sight of him. Okay.

23 You had the opportunity to review the case file summary?

24 A Yes, ma'am.

25 Q And you understand that the case file summary of course

1 is required by the drug enforcement unit to be drafted at least
2 five days after the incident, right?

3 A Yes, ma'am.

4 Q Okay, and so initially what you do is you know as you
5 are observing you get back and you do investigative notes,
6 right?

7 A We usually talk about it yes, ma'am.

8 Q Talk about it and then you right like this narrative
9 correct?

10 A Correct, the case agent does.

11 Q The case agent does the narrative and then after the
12 case agent documents that narrative then turn that over to what
13 they call a general case summary which summarizes everything
14 that happened, right?

15 A Yes, ma'am.

16 Q All right. So, let me show you. And you read through
17 this report, right?

18 A Yes, ma'am.

19 Q And would it surprise you that in the report it states
20 that upon approach Arrowood Road --

21 MS. HAMILTON: Objection, Your Honor. She's
22 trying to publish something that is not in evidence.

23 MS. BURRIS: I'm cross examining.

24 THE COURT: That's true. Rephrase your question.
25 If you want to try a different approach.

1 Q And you actually had the opportunity to read the
2 report, correct?

3 A Yes, ma'am.

4 Q And you apparently adopted this report because if you
5 didn't adopt you had the opportunity to amend the report, right?

6 A That's correct.

7 Q Okay. And the statement in the report indicates that
8 Bisnauth --

9 MS. HAMILTON: Objection, Your Honor.

10 THE COURT: I think that she can do that. Go
11 ahead. Show it to him.

12 MS. BURRIS: Absolutely. May I approach the
13 witness Your Honor?

14 THE COURT: Yes.

15 Q All right, Mr. Ervin, in this report it indicates that
16 as Mr. Bisnauth approached Arrowwood that he passed a tractor
17 trailer in the emergency lane. Is that what the report says?

18 A Let me find it here. Yes, ma'am.

19 Q And that's in the report, right?

20 A Yes, ma'am.

21 Q Okay. So is it your testimony now you didn't actually
22 see him pass a tractor trailer in the emergency lane but maybe
23 you lost him, right?

24 A No, ma'am. By the time that happened I had done lost
25 him.

1 Q Okay, you had done lost him?

2 A Yes, ma'am.

3 Q Okay. But that's actually in the report and it's
4 indicating that Sergeant Ervin is the one who is actually
5 traveling behind him, correct?

6 A Yes, at one time I was but then once I lost him Officer
7 Jenkins took over the chase and went into North Carolina.

8 Q Okay, so it's your testimony that you didn't see him go
9 around the tractor trailer and travel 100 miles per hour in the
10 emergency lane but oh, maybe Sergeant Jenkins did. Is that what
11 you are telling this jury?

12 A Yes, ma'am.

13 Q In fact in reading this report there is know mention
14 ever Sergeant Jenkins actually traveling at all on I-77 is
15 there, behind Mr. Bisnauth

16 A I have to look at it again.

17 MS. BURRIS: If I may approach the witness to help
18 him recollect his memory?

19 THE COURT: Sure.

20 Q In the middle. (Handed a document)

21 A It says right here Officer Jenkins was able to pull
22 somewhat behind Bisnauth with you blue lights and siren
23 activated.

24 Q And where are you reading that from?

25 A Right here in the middle. Right there. (Indicating)

1 Officer Jenkins was able to pull somewhat behind Bisnauth with
2 blue lights and siren activated. Bisnauth was traveling over
3 one hundred miles an hour and traveling to North Carolina.

4 Q So what you are saying you didn't see that happen?

5 A No.

6 Q But Officer Jenkins did?

7 A Correct.

8 Q Okay. Now, you indicate that when you got behind Mr.
9 Bisnauth eventually in your words "dusted you", right?

10 A Yes, ma'am.

11 Q But Officer Jenkins was able to stay pretty close to
12 him?

13 A Yes, ma'am.

14 Q Okay. And so with him traveling in the emergency lane
15 that means that Officer Jenkins' also was breaking the law and
16 traveling in the emergency lane, right?

17 A I was not there. I don't know whether he went into the
18 emergency lane or not.

19 Q So you don't know?

20 A No, ma'am.

21 Q You all talked about it, didn't you, before that case
22 file summary came out, didn't you?

23 A I don't remember. I don't remember whether he said he
24 went in there or not.

25 Q You don't remember what you all discussed in regards to

1 the case file summary when you had five days to put that
2 together in your investigation?

3 A No, ma'am.

4 Q Don't you think that was important since you actually
5 charged this young man with the failure to stop for a blue
6 light? You don't think that was important to discuss the
7 details of what happened when you were one of the officers who
8 said you were behind him?

9 A I can only tell the details that I seen.

10 Q And you didn't discuss with the other officers what
11 happened?

12 A It was probably mentioned.

13 MS. HAMILTON: Your Honor --

14 A It was two and a half years ago.

15 MS. HAMILTON: Objection.

16 THE COURT: Go ahead.

17 Q Now is it Mr. Bisnauth -- Mr. Bisnauth or Miss McMoore
18 were two cars lengths in front of you? Lengths in fronts of
19 you, which one?

20 A She was two lengths behind him and then I pulled up
21 behind the two vehicles, turn my blue lights and sirens on.

22 Q Okay, so were you directly behind Miss Lashonda McMoore
23 and not directly behind Mr. Shawn Roseberry Bisnauth, is that
24 right?

25 A That's correct.

1 Q And so therefore if you were behind Lashonda McMoore
2 and then she and Shawn Roseberry Bisnauth they had two lengths
3 or two cars in between them, you count one, two, three, four,
4 Shawn Roseberry Bisnauth was probably the forth car in the
5 front, right?

6 A He was the third car.

7 Q He was the third car. All right. So you had you,
8 LaShondra McMoore, right?

9 A Correct.

10 Q And you say two lengths between he and Lashunda
11 McMoore, correct?

12 A Correct.

13 Q So Lashunda McMoore is here, (Indicting) one, two,
14 right?

15 A Correct.

16 Q So you have one, two, three and then you're the forth
17 this car, right?

18 A Four car lengths but he was the third one in line.

19 Q So he's the third one in front of you?

20 A Second one in front of me.

21 Q Second one. So there were not two car lengths then?

22 A The car lengths is what I am talking about is the
23 distance between the two cars.

24 Q Right.

25 A While traveling down the road.

1 Q Right. When you say car lengths you mean like a
2 regular car. Let me make sure I clearly understand this. You
3 mean a regular car. When you say two car lengths I just think
4 of two cars and two car lengths, right?

5 A Right, but there was no car in between him and her.

6 Q So what you saying it wasn't actually that extended of
7 a length because it wasn't really a length that car could fit in
8 to, is that what you are saying?

9 A A car could have got in between them if they wanted to.

10 Q So two car lengths?

11 A Correct.

12 Q So if I count your car, Lashunda McMoore in front of
13 you, and according to your testimony two car lengths in front of
14 you there were three cars, right, and he was the third car in
15 front of you, right?

16 A Second car in front of me.

17 Q Maybe I am missing something.

18 THE COURT: You are. Move on to something else.

19 Q Now, let's say he's the third car, okay?

20 A Is that counting my vehicle too?

21 Q If you want to say that.

22 A He would be the third car ma'am.

23 Q Okay. You indicated that Mr. Bisnauth actually dusted
24 you, right? And with all the other cars and what you testified
25 when the assistant solicitor asked you, you indicated that in

1 Fort Mill in this area at 8:15, 8:30 it was too congested. You
2 can state without a doubt under oath that you know that Mr.
3 Bisnauth knew that you had initiated your blue lights and you
4 were trying to stop him, right?

5 A Yes.

6 Q And you know that because what?

7 A Because when I initiated my blue lights both cars got
8 in that next lane. I got over. I'm still behind him. Then
9 when he gets back over and when I come back over to go around
10 her to get up to him she cuts me off.

11 Q Did you ever actually get behind him directly?

12 A For about probably five seconds.

13 Q So you got behind him for five seconds and then
14 Lashunda McMoore was able to zip in front of you?

15 A Yes, she got in back in front of me.

16 Q She got in front of you.

17 A Yes.

18 Q So you actually weren't directly behind him because
19 then you left a car length where she can put her car in front of
20 you so you weren't really direct behind because otherwise she
21 wouldn't be able to get in front of you, right?

22 A She pretty much cut me off.

23 Q She cut you off?

24 A Yeah, I had to jump on the brakes real hard.

25 Q You actually jumped on the brakes. You actually

1 charged her with that?

2 A No, ma'am.

3 Q So you didn't charge her with violatine the law and
4 cutting you off when you were trying to stop Mr. Shawn Roseberry
5 Bisnauth?

6 A No, ma'am.

7 Q Based on what you told me it sounds like Lashunda
8 McMoore was trying to hinder your investigation, is that right?

9 A I think she was cutting you off, yes, ma'am.

10 Q She was cutting you off. So you could have charged her
11 with traffic violation for hindering your investigation if she's
12 tying to stop you from getting Mr. Bisnauth, right?

13 A Correct.

14 Q But you didn't do it, did you?

15 A No, ma'am.

16 Q Now, as part of your investigation, Lashunda Annette
17 McMoore was also the subject of your investigation, wasn't she?

18 A Not at that time, no, ma'am.

19 Q Not at this particular time?

20 A No, ma'am.

21 Q But you actually say you saw Lashunda McMoore and Mr.
22 Shawn Roseberry Bisnauth they were at the store together, right?

23 A Yeah.

24 Q Right?

25 A Yes, ma'am.

1 Q Okay. So, I guess you say not at that time but at a
2 later time she actually became the subject of your
3 investigation, right?

4 A She became a part of it, yes, ma'am.

5 Q She became a part of the investigation?

6 A Yes, ma'am.

7 Q And becoming a part of the investigation she was also
8 charged with drugs, correct?

9 A That's correct.

10 Q Now, you sensed that Lashunda Annette McMoore was
11 involved, I guess, in the whole drug investigation, right? But
12 you didn't try to initiate your blue lights on her?

13 A At the time the sole investigation was targeted towards
14 Mr. Bisnauth.

15 Q But according to your testimony you say you saw them at
16 the store together so you knew that somehow she was associated
17 with Mr. Bisnauth and you were closer, even given your analogy
18 by the car lengths, you were closer to Miss Lashunda McMoore
19 then you were to Mr. Shawn Bisnauth, weren't you?

20 A Sitting across the street, yes, ma'am.

21 Q I'm not talking about that Mr. Ervin. I'm talking
22 about travel on I-77 you were actually closer? In fact Lashunda
23 McMoore was in front of you, wasn't she?

24 A Yes, ma'am.

25 Q And so you could have initiated your blue lights and

1 pulled her over, couldn't you?

2 A I could have but at the time Mr. Bisnauth was the main
3 subject as far as the investigation.

4 Q He was the main subject but you actually had seen the
5 two of them together getting gas or something, right?

6 A Yes.

7 Q All right. So as a part of your investigation because
8 let's think about that time, because you said at that time she
9 didn't really become the subject of the investigation but later
10 she became the subject of investigation and charged. But we all
11 know that just because there's an investigation doesn't mean
12 that it always have to lead to a charge.

13 So answer my question; yes or no, you could have stopped
14 Lashunda McMoore to see exactly what was going on and what she
15 had in her car when you put your blue lights on behind her, yes
16 or no?

17 A Yes, I could have stopped her for a traffic violation
18 but like I said the main subject --

19 Q You could have stopped her at part of your
20 investigation too?

21 A Could have, but at the time our main investigation was
22 on Mr. Bisnauth.

23 Q Mr. Ervin, now you testify when the constant solicitor
24 asked you that you saw Mr. Shawn Roseberry Bisnauth and Lashunda
25 Annette McMoore they were at the gas station, right?

1 A That's correct.

2 Q And they were pumping gas, right?

3 A Yes.

4 Q And at that the time you testified you were trying to
5 execute a search warrant weren't you?

6 A Yes, ma'am.

7 Q And why did you not just actually execute the search
8 warrant right there at the gas station? You were in the State
9 of South Carolina in the County of York, why not try to execute
10 the search warrant then, why not?

11 A Because the information that we had received about Mr.
12 Bisnauth is that he goes to Charlotte, North Carolina --

13 Q Okay.

14 A -- to sell his drugs. We were going to be making sure
15 that he was headed that way.

16 Q Okay. So what you are saying is if he was headed that
17 way -- let's talk a little bit about that. You're an Officer in
18 the State of South Carolina, right?

19 A That's correct.

20 Q Now, isn't it true that you do not technically have
21 jurisdiction in the State of North Carolina; isn't that right?

22 A That's true.

23 Q And you're not allowed to cross over the county line?
24 You're not able to cross over the state line when you talk about
25 South Carolina and North Carolina, you're not able to cross over

1 the line to go there and make arrests, correct?

2 A That's correct.

3 Q And at that time you actually have to call in North
4 Carolina Law Enforcement to get involved, right?

5 A That's correct.

6 Q So in fact your authority ends where the South Carolina
7 and North Carolina line is drawn, correct?

8 A That's is correct.

9 Q So given that if you saw the two of them in the County
10 of York, in the State of South Carolina, why did you not choose
11 to execute the search warrant when you knew you were in York
12 County? Why wait until you get into North Carolina?

13 A Because we was wanting to make sure he was going north
14 on 77 and when I put the blue lights and siren on him Highway
15 160 which is in York County, if he had stopped there we would
16 have took care of business there.

17 Q Let's talk about it then, Mr. Ervin. Let's talk about
18 it. So when you guys got on 77 -- where did you get on 77?
19 There are two ways to get on 77 because they run parallel. You
20 have Celenese and then have you Cherry road, correct?

21 A Yes, ma'am.

22 Q Okay. So you got Celenese and then you have Cherry
23 Road. You all entered on to 77 which way?

24 A Off of Cherry Road.

25 Q All right, off of Cherry Road. So if you enter off of

1 Cherry Road -- let me think. All right, so it's right there not
2 far from McDonald's, correct?

3 A That's correct.

4 Q All right, so you're talking about Cherry Road and
5 you're talking about right there getting on right there near
6 McDonald's. I think it's right there before you get to
7 McDonalds?

8 A It's just past McDonalds.

9 Q Right past McDonalds. And then you have all those
10 different exits, right, because you have Baxter Village exit and
11 then you have all those exits all the way up to Arrowwood,
12 right?

13 A That's correct.

14 Q Right. Okay. So you follow him. Which gas station
15 did they go to?

16 A The one I think to the one just south of the McDonalds
17 on Cherry Road.

18 Q Okay, just south of McDonalds. So they have down there,
19 I believe I remember vividly the red and white sign because I go
20 there some times. Do you remember was it that gas station, the
21 one it's not far from Taco Bell, right across the street from
22 Taco Bell?

23 A It's close to Taco Bell. I think it's right across
24 from Taco Bell.

25 Q Right across the street from Taco Bell, right?

1 A Right there.

2 Q So they're at that gas station, right? So they leave
3 that gas station. They go right there I believe past McDonalds,
4 or I'm not even sure they past McDonald's, but they get on 77
5 from Cherry Road, right?

6 A That's correct.

7 Q And so you begin to start the the various exits because
8 it seems like it sort of takes a while before you actually get
9 to the first Fort Mill exit, right?

10 A Yes, ma'am.

11 Q Okay. All right. So you get on the ramp, around the
12 roller coaster as my daughter says. Okay, so you get on the
13 ramp and you go from -- you're on 77 now, right?

14 A We take the onramp from Cherry Road on to 77 north.

15 Q All right, so 77 north and on 77 north it takes a while
16 and then you get to the first Fort Mill exit, right?

17 A Yes, ma'am, which would be Sutton.

18 Q Sutton Road, that's right Mr. Ervin. And then you get
19 to the next Fort Mill exit, right?

20 A That's Highway 160. That's where I initiated the blue
21 lights and siren at.

22 Q Highway 160 is where you initiated. Now that means you
23 travel at least what, how many miles?

24 A Two. Maybe three.

25 Q Maybe two or three miles before you decided that you

1 wanted to initiate your blue lights, right?

2 A Correct.

3 Q And what you're telling me is that he was ahead of the
4 the Lashunda McMoore at this time, right?

5 A Yes.

6 Q And you didn't think it was important to initiate an
7 investigation against her or pull her over as a part of your
8 initial investigation since you saw her with him and you knew
9 about the drug investigation at the gas station. You didn't
10 think it was important as part of your investigation?

11 A Not at that time, no, ma'am.

12 Q At that time. Mr. Ervin, if you had a search warrant
13 and you can execute the search warrant at the gas station,
14 right?

15 A Correct.

16 Q And you had the two of them stopped, right?

17 A Correct.

18 Q In their individual cars, right?

19 A Yes, ma'am.

20 Q You have her in her Mercedes?

21 A Correct.

22 Q And then you have Mr. Bisnauth in his Toyota Camry,
23 older model Toyota Camry?

24 A Correct.

25 Q Isn't it safe just to execute the search warrant right

1 there in the gas station parking lot? No law against that,
2 right?

3 A Ain't no law against it.

4 Q But you decide not to do it, right?

5 A Correct.

6 Q So what you are telling us that because you didn't
7 initiate or execute the search warrant right there in that
8 parking lot, neither were you able to stop Miss Lashunda Annette
9 McMoore you don't know what was in her car do you?

10 A No, ma'am, I don't.

11 Q Okay, but you only know that when she got back to her
12 home at Sandpiper Drive she had \$ 2,003 in her pocket,
13 didn't she?

14 A I'm not sure how much money because I did not deal with
15 her at the house.

16 Q Oh, you were a part of the investigation but you did
17 not deal with her there at the house.

18 A I was at the house but I did not deal with her.

19 Q So you didn't deal with her, right?

20 A That's correct..

21 Q All right. Mr. Ervin, even if you didn't deal with her
22 you had the opportunity to read the case file summary, correct?

23 A That's correct.

24 Q And you had opportunity to read the investigation
25 notes, right?

1 A That's correct.

2 Q And had the opportunity to read the initial narrative
3 that you all get together and draft, correct?

4 A Yes, ma'am.

5 Q And so you also read the evidence inventory sheet,
6 right?

7 A No, I did not.

8 Q You did not. All right. Even if let's say you didn't
9 read the evidence inventory sheets, okay. Let's say that you
10 read the investigative notes?

11 A I read the case summary.

12 Q Read the case file summary, right?

13 A Yes, ma'am.

14 Q And on the case file summary it clearly says that
15 Lashunda McMoore came back to Sandpiper Drive located in
16 Rock Hill. She had her key. She entered in and when they end
17 up searching her and they end up finding \$2,003 on her person.
18 I believe it was in her purse, right. You remember reading that
19 don't you?

20 MR. HOGGE: Objection, Your Honor. She can't
21 cross examine him about a report he read. It's all
22 hearsay. She needs to ask him about --

23 THE COURT: She's asking him do you know that she
24 had \$2,003 in US currency on her.

25 MR. HOGGE: That's fine, but not if he read it

1 from a different officer's report.

2 THE COURT: Do you know that or not?

3 THE WITNESS: At the time she showed up at the
4 residence Your Honor, no, I did not.

5 THE COURT: But did you find out about it later on.

6 THE WITNESS: Correct.

7 THE COURT: Okay, next question.

8 MS. BURRIS: All right.

9 Q So you found out that \$2,003 was actually in Lashunda
10 Annette McMoore's pocketbook, right?

11 A Yes, ma'am.

12 Q And you've been doing this how many years Mr. Ervin?

13 A Eighteen and a half. Almost nineteen.

14 Q Almost 19. Congratulations. All right. You were
15 involved in the execution of the search warrant?

16 A I was there, yes, ma'am.

17 Q And who else was there with you?

18 A Myself, Officer Burkhart, Commander Marvin Brown. I'm
19 trying to think. Officer Josh Todd was there but he had to
20 leave.

21 Q Okay?

22 A I think there was a couple more officers. I'm not
23 sure.

24 Q So may be three to five officers?

25 A If I can see the case summary I can tell you exactly

1 who was there.

2 MS. BURRIS: If I may approach, Your Honor.

3 THE COURT: Go ahead.

4 MS. BURRIS: Thank you.

5 (WHEREUPON, a document was handed to the witness.)

6 Q How many York County Drug Enforcement Unit officers
7 were involved in this investigation according to the report?

8 A Commander Brown, Sergeant Canny (phonetics), Sergeant
9 Ervin, R. Jenkins, D. Burkhardt and J. Spencer.

10 Q So we had at least six officers there doing this
11 investigation, right?

12 A Right, from the York County Drug Enforcement Unit.

13 Q Okay. Thank you.

14 Do you remember how much money you end up taking off of
15 Lashunda McMoore?

16 A I didn't take no money off of her.

17 Q Okay. But there was money taken off of her?

18 A To my knowledge yes.

19 Q Okay. Now, Mr. Ervin, when you got to the home to
20 execute the search warrant because eventually you end up turning
21 around and going back to Sandpiper, right?

22 A Yes, ma'am.

23 Q So you got to the home. Lashunda McMoore comes to the
24 home to her home, right?

25 A Yes.

1 Q And she had a key, right?

2 A That's correct.

3 Q And she ends up whether it was you guys got the key
4 from her or she used the key, she had a key to Sandpiper
5 Drive, right?

6 A That's correct.

7 Q And when Lashunda McMoore arrived at her home,
8 Sandpiper Drive, she had a guy in the car with her and his name
9 was Neko Tucker, correct?

10 A She had a guy with her but I never did hear who his
11 name was at that time.

12 Q Okay, at that time. But eventually you found out she
13 had this guy with her and his name was Neko Tucker and there was
14 some mention of him actually living at Sandpiper Drive,
15 right?

16 A I don't remember whether anybody actually said that he
17 lived there or not the because I did not deal with him.

18 Q Okay. But you didn't really deal with him?

19 A Correct.

20 Q Okay. But you know that she came to the residence with
21 him?

22 A Yes.

23 Q Now when you got to the residence did you get there
24 before she got there or afterwards?

25 A We set up surveillance on the house and seen her pull

1 in and we pulled in behind her.

2 Q Okay, and you pulled in behind her. And so when you
3 were going into her home of Sandpiper Drive there was
4 another guy there wasn't there?

5 A Yes, ma'am.

6 Q And the guy there opened the door to their home,
7 Sandpiper Drive, isn't that right?

8 A They opened the door.

9 Q And he was identified to be her brother. His name is
10 Antonio Vasquez, isn't that correct Mr. Ervin?

11 A That's correct.

12 Q Okay. And so you have Lashunda McMoore in the vehicle
13 with Neko Tucker, yes?

14 A Correct.

15 Q And then have you another guy come to the door to open
16 the door which was her brother, Antonio Vasquez, right?

17 A Yes, ma'am.

18 Q And as a part of your investigation you read the report
19 right?

20 A Yes, ma'am.

21 Q And you were a part of whole execution of the search
22 warrant, right?

23 A I was there.

24 Q And Lashunda McMoore was originally from Virginia,
25 correct?

1 A I guess.

2 Q Your not sure?

3 A Not one hundred percent.

4 Q When the search warrant was being executed in the house
5 given that you were involved with the initial investigation
6 where did she say she was from?

7 MS. HAMILTON: Objection. That's hearsay.

8 THE COURT: Did she tell you where she was from.

9 THE WITNESS: She did not tell me, no, Your Honor.

10 THE COURT: Ask another question.

11 THE WITNESS: She did not tell me personally.

12 Q So you don't know where she was originally from?

13 A No.

14 Q Do you know where Neko Tucker was originally from?

15 A No, ma'am.

16 Q And do you know where Antonio Vasquez was originally
17 from?

18 A No, ma'am.

19 Q Okay now at some point someone had to read them their
20 Miranda rights, right?

21 A That's correct.

22 Q And what you do, as law enforcement, drug enforcement
23 unit, you go in and secure the residence right?

24 A That's correct.

25 Q And you have everybody to sit down as you're actually

1 reading them their constitutional rights, right?

2 A That's correct.

3 Q And it is very important that you ask everyone to
4 produce their identification so you know exactly who they are,
5 right?

6 A That's correct.

7 Q And in fact do you remember whether or not you asked
8 Neko Tucker to produce his identification to see where he was
9 from and see where he lived?

10 A No, ma'am, I didn't because I didn't read him his
11 rights.

12 Q You didn't read him his right, but you were right
13 there, right?

14 A I don't think I was in the room at the time.

15 Q You were not the room?

16 A No, ma'am.

17 Q Okay. But at some point they were actually all sitting
18 down and you had the opportunity to look at the case file
19 summary to see whether or not they were asked to produce their
20 identification so we can see exactly where they live, correct?

21 A Correct.

22 Q And you don't see anything in the case file, the case
23 file summary indicating where Neko Tucker lived or Antonio
24 Vasquez lived, right?

25 A Correct.

1 Q When you pulled up were there additional cars at
2 Sandpiper Drive?

3 A Are you talking about cars that stayed there or patrol
4 cars.

5 Q Cars that people that drive there and live there?

6 A There was no other cars there at the residence.

7 Q No other cars?

8 A No, ma'am.

9 Q Okay. So know other cars. So that means when Neko
10 Tucker him being in the Lashunda McMoore's Mercedes Benz with
11 her and Antonio Vazquez it's possible that they actually live at
12 Sandpiper Drive, isn't it?

13 A Anything is possible.

14 Q That's right.

15 MS. BURRIS: Your Honor, at this time I do not
16 have any further questions.

17 THE COURT: All right. Anything on redirect.

18 MS. HAMILTON: I am done with this witness, Your
19 Honor.

20 THE COURT: I want to clear up, how long would you
21 say it was from when you initiated your blue light and
22 siren to when you say he dusted you? How long a
23 period of time are we talking about?

24 THE WITNESS: Probably went maybe a mile, half
25 mile to a mile.

1 THE COURT: So maybe just a minute or two?

2 THE WITNESS: Yes, sir.

3 THE COURT: Okay. Thank you very much.

4 THE WITNESS: Yes, sir.

5 (WHEREUPON, the witness leaves the stand.

6 THE COURT: Let's take a break. You to go jury
7 room for about five minutes if you would. Five minute
8 break.

9 (WHEREUPON, there was a brief recess.)

10 THE COURT: Bring the jury in.

11 MS. BURRIS: Judge, I think we need an issue to
12 take up right before the jury comes in. Two things.

13 THE COURT: Wait. Wait. Somebody shut door then
14 to keep them out then. Wait a minute. Hold the jury
15 out there in the hall a minute. Hold them. Don't
16 take them back to the jury room. Just hold them right
17 there.

18 What is it?

19 MS. BURRIS: Your Honor, I can't follow these
20 officers home but would I ask that you remind them
21 that they are under a court order sequestration. It
22 has been brought to my attention that the officer with
23 the grey suit on which I believe is identified as
24 Marvin Brown is actually talking about the testimony
25 of what occurred in trial. So I would ask that you

1 THE COURT: We will go ahead and before you go
2 into anything like that you let me know and I will
3 send the jury out. It's time to get started.

4 MS. BURRIS: Right, and that case was a mistrial.

5 THE COURT: It's not a matter of mistrial. I said
6 I will go into that nonjury before anything is done
7 about that.

8 MS. BURRIS: Yes, sir.

9 THE COURT: Bring the jury in.

10 THE BAILIFF: Yes, sir.

11 (WHEREUPON, the jury enters the courtroom.)

12 THE COURT: All right. We have the jury back with
13 with us and Mr. Bisnauth is present along with his
14 attorney.

15 Call your next witness solicitor.

16 MS. HAMILTON: Thank you, Your Honor. The State
17 would call Commander Marvin Brown to the stand.

18 THE COURT: Come on up.

19 MR. BROWN: Yes, sir.

20 MARVIN BROWN, called as a witness, having been duly
21 sworn by the clerk, was examined and testified as
22 follows,

23 MS. HAMILTON: May it please the Court, Your Honor.

24 THE COURT: Go ahead.

25 DIRECT EXAMINATION

1 BY MS. HAMILTON:

2 Q Good morning. Thank you for being here. Could you
3 please state your full name for the Court?

4 A It's Marvin Reid Brown.

5 Q And what is your occupation?

6 A I'm a police officer, class one certified. I'm the
7 captain or commander over the drug unit. I work for Kevin
8 Brackett here at the solicitor's office but I'm assigned to be
9 the supervisor over the drug unit.

10 Q And what type of work do you do in your position?

11 A Well, I head up the drug unit. We work mostly drugs
12 and guns. I help Solicitor Brackett on occasion with some
13 homicide cases but my primary focus is the drug unit and I
14 handle all the federal gun cases that come through York County.

15 Q Were you employed in -- or how long have you been
16 employed with the York County Drug Enforcement Unit?

17 A Well, we formed the drug unit in September of 1998 and
18 I was the supervisor who formed that unit. Prior to that I
19 worked at Rock Hill Police Department as a lieutenant over
20 narcotics and I ever been in law enforcement for 41 years.

21 Q Were you employed in your present capacity with the
22 York County Drug Enforcement Unit the morning of October 15,
23 2015?

24 A Yes, ma'am, I was.

25 Q Now, I am going to draw your attention to that morning.

1 What were you doing that morning around between eight and eleven
2 a.m.?

3 A I was in the office at Rock Hill Police Department. We
4 have an office at Fort Mill Police Department, the drug unit.
5 The county is rather large. We have three offices. One in
6 York, one in Fort Mill, one in Rock Hill. I was at the Rock
7 Hill office that morning at eight o'clock.

8 The drug unit is made up of eight police agencies here in
9 York County and so we have various offices, but I was in the
10 Rock Hill office.

11 Q And do you remember what happened around 8:30, 9:00
12 that morning?

13 A Yes, ma'am. When Investigator Ervin observed Mr.
14 Bisnauth in the front yard I was in the office. I had the
15 search warrant. So I grabbed the search warrant. I had a
16 search warrant for Mr. Bisnauth, the Toyota and his house. So I
17 grabbed the search warrant and started out to where they were
18 at.

19 Q And then what happened?

20 A Well, I was on the way to the house but Mr. Bisnauth
21 left and went to gas station. Then I started to the gas station
22 station and when he left and went up to the interstate I went in
23 the direction up to the interstate. I was little bit behind him
24 so when they got into the chase I went back to the house. I
25 didn't want any chances of someone calling the house or Mr.

1 Bisnauth circling back around to the house so I did not get
2 involved in the the chase I went back to the house.

3 Q And what is the address of that house that you are
4 speaking?

5 A Sandpiper Drive in Rock Hill. It's off Ebinport
6 Road and Cherry Road. So I went to the house but I didn't go in
7 the house. I just went to the house and conducted surveillance
8 for the next three hours.

9 Q Okay, and is that in York County?

10 A It is. It's in Rock Hill.

11 Q That was the residence of Mr. Bisnauth, correct?

12 A Yes, Mr. Bisnauth, Miss McMoore and their two children.
13 Her two children. Sorry.

14 Q Was there anyone -- okay, so I want to go into what
15 happened after you set up surveillance at that location after
16 you hear about the chase. So could you tell me what happens
17 once you are sitting there, what you see?

18 A I sitting there for about three hours and there was no
19 activity at the house and about 11 o'clock Lashunda showed back
20 up. That's Miss Moore, Shawn's girlfriend. Lashunda showed
21 about 11 o'clock. She was in Shawn's Mercedes. She pulled in.
22 She had another subject sitting on the passenger side and I
23 pulled up behind the car and got out and walked up and talked to
24 her.

25 Q And you said Shawn's Mercedes. How did you know it was

1 his Mercedes?

2 A It's registered in his name and also after he was
3 arrested they came and got the car from her?

4 Q How did you know it was in his name?

5 A I ran the -- I had run the tag at least a week earlier
6 before the chase and I have a printout of it but I ran the tag.
7 Come back to his name and his mother's address in Newport before
8 he moved over to Sandpiper a couple months earlier.

9 Q So that Mercedes is in the defendant's name, correct?

10 A Yes, it's Shawn's car.

11 Q So going back to when Miss McMoore pulls up at the
12 residence when you got there. What happened at this point? Who
13 is with her?

14 A She has a young man in the car with her. His name is
15 Tucker, Neco Tucker and he was in the car with her and I walked
16 up and she got out and he got out and I talked to him for a
17 moment.

18 Q And what happens next?

19 A I told I had a search warrant for the house and she was
20 pleasant and she said okay, and she walked up. She had her keys
21 in her hand and then a subject opened the door and came outside.
22 His name was Antonio -- last name was Vasquez. I think his
23 first name is Antonio. I'm not sure.

24 Q Okay. And the person inside the residence did he
25 identify who he was?

1 A Yes. He and Mr. Tucker both said they were from
2 Danville, Virginia and that's where Miss McMoore is from,
3 Lashunda, and they -- I had not seen him around the house prior.
4 It looked like they may have spent the night because Mr. Tucker
5 he looked like he just woke up.

6 Q Vasquez looked like he woke up?

7 A I am sorry Vasquez.

8 Q Okay.

9 A They're both young men and they're both from Danville,
10 Virginia and I only saw them the one time.

11 Q Okay. Was anyone searched? Those two men were they
12 searched.

13 A Yes, you could smell a odor of -- a stale odor of
14 marijuana so we asked all three of them for consent and Mr.
15 Vasquez, the young man who answered the door had a little bit of
16 marijuana in his pocket so we wrote him actually a traffic
17 ticket. We write citations for marijuana now. So we wrote him
18 a traffic ticket, a blue citation. It's on a traffic ticket.
19 It's not a traffic ticket, but it is on the traffic ticket form.

20 Q And that's because it's a magistrate level charge,
21 correct?

22 A Yes, and we just wrote him a ticket and let him go.

23 Q Okay, did you determine if he lived at Sandpiper
24 Drive?

25 A No, he and the other young stated they lived in

1 Danville, Virginia and I had not seen anyone at the house during
2 my prior surveillance.

3 Q Did they give an address for Danville, Virginia?

4 A Yes, they actually wrote it down, which we didn't ask
5 them to write it down but I guess we asked them -- we read them
6 their rights and there's a form and on that form we asked the
7 people to sign to acknowledge they received their rights. They
8 actually wrote their address on that form which is fine. It's
9 okay, but I remember them saying that they lived in Danville,
10 Virginia and Lashunda said she had lived in Virginia. They were
11 friends of hers, not Shawn.

12 Q So he did not live there?

13 A He did not live there.

14 Q So, what did you do after you read everyone their
15 rights and everyone was searched, what happened next?

16 A I stood in the doorway of the master bedroom, with
17 Lashunda and Shawn's bedroom. I stood in the doorway while
18 Investigator Burkhardt searched the bedroom and I observed him as
19 he found each and every item.

20 Q And you said you knew it was the defendant's bedroom,
21 correct?

22 A Yes, Lashunda said it was their bedroom.

23 Q That they shared together?

24 A Yes.

25 Q So, what happened next? Did you locate anything

1 illegal in the the defendant's, Mr. Bisnaught's, bedroom?

2 A Well, there were various items in the the closet. I
3 observed Investigator Burkhardt. The largest item -- there was a
4 large Tupperware container where often people store things in
5 but on top of this Tupperware was a smaller Tupperware which
6 normally would be in the kitchen. It was on top of it but it
7 was its covered with clothing and when Investigator Burkhardt
8 moved the clothing back I saw the Tupperware dish which stood
9 out. It was out of place. And he opened it up and it had,
10 based on my experience, what I believe to be heroin and
11 methamphetamine and cocaine. All that three type of drugs was
12 in that Tupperware dish in the closet.

13 Q In the master bedroom closet?

14 A Yes, in Shawn's closet.

15 Q Did you find anything else that you felt was important
16 within the bedroom and the residence that you thought would be
17 important to your investigation in regards to drugs?

18 A We searched the residence. There was a bag on the
19 floor with some drugs in there, some cocaine, and out in the
20 garage there was was a bag with like a dozen boxes of baggies
21 and a heat sealing machine and there was also a couple of
22 baggies with some white powder residue in the baggies and I was
23 there when everything was found and after we searched and found
24 everything I went back in and took a couple of photographs.

25 We also found an empty box with scales -- digital scales

1 would normally be in. The scales were missing. The scales were
2 missing from that box.

3 Q Did you search the master bedroom bathroom?

4 A Yes. I went in to the bathroom in the closet. In the
5 bathroom was -- in the bathroom was four pill bottles and they
6 were -- I turned them so you could see the names on all four
7 pill bottles and I took a picture of them to show they were just
8 up on counter like you would leave them and all four pills
9 bottles were in Shawn's name. So I turned them so you could see
10 he had four pill bottles in the bathroom to show that he lived
11 there and the pill bottles had, you know, take one daily; take
12 two daily. That type thing. His medications.

13 Q So these are daily medications that he would need to be
14 taking daily?

15 A Well, that's the instructions on the pill bottles.
16 Take them one a day and twice a day.

17 Q Did you find anything else identifying this residence
18 as his other than being told that it was his house, anything
19 else?

20 A Oh, yeah. There was credit cards, or some type of
21 credit cards and mail correspondence and that type thing in his
22 bedroom. Investigator Burkhardt collected it. I saw several
23 items with his name on it. It was in his bedroom.

24 Q In the closet that you found the drugs in was there
25 anything in the closet that would identify this as being his

1 closet?

2 A Well, there were male and female clothing and male and
3 female shoes. So out of habit I took a picture of the closet to
4 show that there were male and female clothing in the closet. I
5 only took the two photographs; one of his pills bottles and one
6 of the closet. And I took the picture of the closet right where
7 the drugs were found but little bit higher to show there was
8 clothing right where the drugs were found, male and female
9 clothing.

10 Q So you just stated you had taken photographs. I am
11 going to hand you what has been marked as -- for identification
12 purposes, State's Exhibit Number one and number two.

13 THE COURT: Any objection to them?

14 MS. BURRIS: No objection, Your Honor.

15 THE COURT: No objection. One and two.

16 Q Would you please take a look at these photos for me.
17 Do you recognize these photos?

18 A Yes, ma'am. I actually put my name on them.

19 Q Do these photographs fairly and accurately depict the
20 items that you located in the defendant's residence specifically
21 the defendant's closet and the pill bottles?

22 A Yes, ma'am.

23 Q That you located on October 15, 2015?

24 A Yes, ma'am, except they're in black and white and of
25 course the clothes had color. I took it on my phone and printed

1 it in black and white.

2 Q Okay. Are there any material alterations or deletions
3 on these photos that you notice?

4 A No. I actually have my name on the actual photographs
5 that I printed. This is not from a disc. This is from my phone
6 and I wrote my name on it.

7 Q So you took those photos?

8 A Ma'am?

9 Q You took those photos?

10 A I did take these two photos.

11 MS. HAMILTON: Your Honor, the State would ask
12 that exhibit one and two be admitted into evidence.

13 THE COURT: In evidence without objection. You
14 want to pass them around to the jury you can.

15 (State's Exhibits One and Two, photographs,
16 received in evidence as of this date.)

17 MS. HAMILTON: Can we publish them for the jury,
18 Your Honor?

19 THE COURT: Yeah, go ahead. You can pass them
20 around but you will have them at the end of the case
21 WHEN you consider your verdict. So this is not the
22 only chance you get to look at them. Go ahead.

23 MS. HAMILTON: We actually have a power point
24 slide.

25 THE COURT: All right. Put them up.

1 MS. HAMILTON: Okay, thank you.

2 Q Now, could you please describe to the jury what this is
3 a photo of?

4 A That's a photo of Shawn and Lashunda's master bedroom
5 closet with the empty hangers there. To the right there is a
6 dress and right below the dress is where the Tupperware dish was
7 found with the drugs in it and at the bottom you can see where I
8 wrote male and female clothing in the master bedroom.

9 Q And this is going to be State's Exhibit Number two.
10 What are these?

11 A These are the four pill bottles that was in the
12 bathroom on the cabinet up in the open. I did turn them so you
13 you could see the name. They were not lined up like ducks in a
14 row but I turned them so you could see the names.

15 Q So then you said that you noticed on the bottles that
16 it instructed for him to take daily. Where is that? Could you
17 -- do you see that on this photo?

18 A I see it on this one if I step down.

19 Q Yes.

20 A It's on there.

21 (WHEREUPON, the witness steps down from the
22 witness stand.)

23 A Two times a day. Take one tablet every day. Take one
24 tablet every day two times a day. I believe this one
25 (indicating) are the same type medication.

1 THE COURT: Where's the name?

2 THE WITNESS: Yes, sir. The name is here
3 (indicating) Shawn Bisnauth, Shawn Bisnauth, Shawn
4 Bisnauth and Shawn Bisnauth. The names are at the top
5 and the instructions are right below the name, Your
6 Honor.

7 Q Thank you. Okay Commander Brown, I am going to ask you
8 you stated you have been in law enforcement 41 years total,
9 correct?

10 A Yes, ma'am.

11 Q Okay, and do you have experience in investing drug
12 crimes?

13 A Yes, I executed my first search warrant 1977. In 1987
14 we formed the drug unit, Rock Hill Police Department and the
15 SWAT team. I helped form both of those. But prior from '77 to
16 '87 I was in the detective division and I actually worked
17 narcotic violations so I have been working narcotics probably
18 pretty much 41 years.

19 Q So you have experience in investing drug distributions
20 also, correct?

21 A Yes, ma'am.

22 Q Okay. Based on your experience in the field, what is
23 the relevance of these items that were found; the boxes of the
24 digital scales, the packaging material?

25 MS. BURRIS: I am going to object to that.

1 THE COURT: All right. I will allow it. You can
2 tell us about those items that she's asking about.

3 Q Could you explain what the packaging materials, the
4 heat sealing machines, the digital scales, why is that relevant
5 and why did you think that relevant in this drug distribution?

6 A We had about a dozen boxes of baggies in the garage
7 with the heat sealing machine and in the narcotic line we see
8 where people heat seal drugs on a regular basis. They can
9 pre-weigh way them and heat seal them or they can -- and the
10 heat seal helps keep the smell out. We have three canines in
11 out drug unit so if you heat seal them sometimes with cocaine
12 and meth and heroin it is a little bit difficult. Marijuana you
13 can still pick up on that. But it's common for large scale drug
14 dealers to heat seal large amounts of drugs or drugs in these
15 bags. Buyers and users normally wouldn't have heat sealing
16 machines.

17 Q And the digital scale boxes, what are digital scales
18 used for?

19 A Digital scales are used to weigh the drugs, and so,
20 there was no digital scales at the house but there is a box of
21 digital scales which is common for drug dealers to take their
22 scales with them when they go somewhere else so they can weigh
23 the drug before they make the sale. Sometimes they prepackage
24 them and if someone wants a different amount they have to have
25 the scale with them to break them down.

1 Q And was this stuff throughout the house visible to
2 anyone who would be there?

3 A The box of bags and the heat sealing was out in the
4 garage with a couple of bags of plastic. It wasn't in the
5 kitchen. And you can use the heat sealing machine for food too,
6 but it wasn't in the kitchen. It was in the garage. And there
7 was a table, like a little work area in the garage. And the
8 drugs in the house were in the closet and there was clothing
9 over the drugs. You couldn't just see the drugs. They weren't
10 just laying out in plain view. There was an a little bit of
11 marijuana -- roach some people call it -- partially smoked
12 cigarette out in the open, but the big drugs were not out in the
13 open.

14 Q Now as to the cocaine, the weight that was found, in
15 your experience, 41 years of investing drug crimes -- is this a
16 personal use level; 3.83 grams?

17 A Users only buy a gram or less. They normally don't
18 have over a gram and I think we had about four grams of cocaine,
19 had about 14 grams or so of heroin and about 28 grams of meth.
20 That is not user amounts. That is dealer amounts.

21 Q Okay. How much would a normal dose for a user of
22 cocaine be?

23 A Well, cocaine, meth and heroin it's a 10th of a gram.
24 A tenth of a gram normally sells for 20 dollars for cocaine and
25 meth. Heroin is a little bit more.

1 Q And so this is a lot of money in drugs, correct?

2 A About \$3,000 in meth, a couple thousand in heroin and
3 about four or five hundred in cocaine. So about \$5,000 in drugs
4 all total at that time.

5 Q Okay. Did you locate anything in the house to indicate
6 personal use such as drug paraphernalia for those drugs
7 specifically?

8 A I did not. I did see where they had been smoking some
9 marijuana but I did not see anything else for personal use. No
10 cut straws for the meth, no syringes for heroin. I didn't see
11 anything to indicate usage of the narcotics.

12 Q And did you subsequently speak to the defendant?

13 A Shawn, yes, I did.

14 MS. HAMILTON: Your Honor, may we approach?

15 (WHEREUPON, there was an off the record
16 discussion.)

17 THE COURT: Members of the jury panel I need you
18 to go to jury room. I got to take up a matter with
19 the lawyers. I need to talk with them before we go
20 any further. If you would go to the jury room please.

21 (WHEREUPON, the jurors exit the courtroom)

22 THE COURT: All right. We have the jury out.
23 The door is closed. I assume this is where you want
24 to ask him questions and give responses about his
25 conversations with Mr. Bisnauth.

1 Whatever.

2 MS. HAMILTON: Okay.

3 THE COURT: Bring the jury in. Just don't talk
4 about the telephone conversation.

5 THE WITNESS: Yes, sir. I understand.

6 (WHEREUPON, the jury enters the courtroom.)

7 THE COURT: All right. We have the jury back with
8 us. You may continue to examine the witness.

9 MS. HAMILTON: Thank you, Your Honor.

10 DIRECT EXAMINATION

11 CONTINUED:

12 Q Who was your main target in this investigation?

13 A Shawn.

14 Q Did he subsequently turn himself in on these charges?

15 A He did. He turned himself in. Miss McMoore was
16 arrested, taken downtown and he turned himself in a couple hours
17 later. I think he had like \$500 even, exactly \$500 dollars in
18 his pocket.

19 Q So he had 500 cash on his person when he turned himself
20 in?

21 A He did.

22 Q Were you present when the defendant was booked on these
23 charges?

24 A Yes, I was present when Shawn's basic information;
25 name, address, that type of thing.

1 Q So you heard the questions asked of him during the
2 booking process and his response?

3 A I did.

4 Q Okay, and an officer wrote down the answers to these
5 personal questions that were asked of him for the booking
6 purposes, correct?

7 A Yes, they are required to ask. They can't just use
8 the drivers license of identification. They must ask the person
9 and they did. They asked Shawn and I was there and heard his
10 response.

11 Q And what did they ask him?

12 A His address, name. His address he gave Sandpiper
13 Drive. Asked him was he employed. He said no, he was
14 unemployed. Gave his name, date of birth, social security
15 number that type thing. Personal information.

16 Q So he stated he was unemployed?

17 A Yes, he did.

18 Q But he had that Mercedes in his name?

19 A Yes, he did.

20 Q Do you see the person in the courtroom today that
21 subsequently turned himself in on these charges at Rock Hill
22 Police Department on October 15, 2015 and stated that he did
23 live at Sandpiper Drive where those drugs were located?

24 A That's Shawn sitting between his two attorneys, here.
25 (Pointing)

1 Q Is he wearing -- what shirt is he wearing, what color?

2 A I have problem with colors. I believe it's a white
3 shirt. He has a handkerchief coming out of the pocket. But I
4 assume that is blue or grey suit.

5 Q Thank you?

6 THE COURT: Are you colorblind?

7 THE WITNESS: Yeah, I am. To a certain degree.
8 That's why I use the pointer instead of the red thing,
9 on the -- up there.

10 MS. HAMILITON: Commander Brown, please answer any
11 questions the defense may have. Thank you.

12 THE WITNESS: Yes, ma'am.

13 MS. BURRIS: May it please the Court.

14 CROSS EXAMINATION

15 BY MS. BURRIS:

16 Q Mr. Brown, how are you?

17 A I am a fine, thank you. How are you?

18 Q I'm good. Thank you.

19 Mr. Brown, you made mention of some digital scales being
20 found, is that right? Or box?

21 A A box.

22 Q Okay. And, now let me make sure that we start from the
23 top and I want to know, were you the case agent on this case
24 that day?

25 A No, ma'am. I was supervisor but not the case agent.

1 Q Okay.

2 A There's a difference.

3 Q There's a difference. Of course there is. But now on
4 the case file summary you documented that you were the case
5 agent, didn't you Mr. Brown?

6 A You know what, I was co-case agent. You're exactly
7 right. I typed the summary in this case, yes.

8 Q Okay, so were you co-case agent and not necessarily
9 supervisor on that day?

10 A On this particular case I was the supervisor. I don't
11 take many cases. On this particular case your right, I was the
12 co-case agent or the case agent. You could consider me the case
13 agent on this case because I typed the summary. I did the
14 search warrant.

15 Q Okay, so you you were the case agent Mr. Brown?

16 A Yes, ma'am.

17 Q You mentioned that there was a box of digital scales?

18 A An empty box.

19 Q An empty box, right. That looked like digital scales
20 would come out of, right?

21 A Yes, ma'am.

22 Q And in your experience you have been doing this for how
23 many years?

24 A Forty-one.

25 Q Forty-one. So you know that it's very important to

1 photograph every piece of evidence that you indicate that you
2 find at the incident that's in question, right?

3 A Yes, ma'am, but I didn't find it.

4 Q Mr. Brown, you know he that it's important to
5 photograph every single piece of evidence when you have serious
6 charges such as trafficking heroin, trafficking meth, failure to
7 stop and possession with intent to distribute cocaine; yes or
8 no? It's important to photograph everything, yes?

9 A Yes, we try to.

10 Q Okay. Yes, you try to. Now Mr. Brown, you have gone
11 through the entire case, isn't that correct?

12 A Yes, ma'am.

13 Q All right. Now Mr. Brown you looked at the case file
14 summary, you looked at the original case file or case summary
15 that was actually typed up, you looked at the photographs,
16 right?

17 A Yes, ma'am. When you turn away -- go ahead, I'm sorry.

18 Q Okay, I will try not to do that. You looked at
19 everything within the file, haven't you?

20 A Yes, ma'am. I think so, yes.

21 Q Okay. And in the file there're absolutely no
22 photographs whatsoever of a box of digital scales, an empty box
23 indicating digital scales came out, is it?

24 A There is a dozen boxes but not of the scales, that's
25 correct.

1 Q Not of scales, right?

2 A That I know of. There are several photographs that I
3 looked through them. I don't remember seeing one of the scales.
4 I agree with you on that.

5 Q But what you do know is there was a box, an empty box
6 with plastic that looked like there was an air mattress had come
7 out of it, right?

8 A Well, I don't know about that.

9 Q Okay. You said you looked at the photos?

10 A I did look at several photographs. I don't remember
11 the air mattress box, but I do remember the scale box because it
12 was fairly new looking.

13 Q Okay. All right. Let me correct it, it's a blow-up
14 mattress. There's a difference.

15 Ms. Burris: All right, I am going to have this
16 marked as Defendant's Exhibit one.

17 (Defendant's Exhibit 1, photograph, marked for
18 identification as of this date.)

19 MS. BURRIS: If I may approach the witness?

20 THE COURT: Any objection to that photograph.

21 MS. HAMILTON: No, Your Honor.

22 Q Mr. Brown I am showing you what has been previously
23 marked as Defendant's Exhibit One. You indicate that you had
24 the opportunity to go through the photographs and of course
25 there were boxes found. Are you familiar with that photo?

1 A Yes, I am.

2 Q Okay, and you remember finding that box that indicates
3 it has -- it has the size queen on it and it indicates that it's
4 an air mattress, right?

5 A Yes, ma'am.

6 Q Okay, so that is one of the boxes that was actually
7 photographed and found at the incident location, right?

8 A Yes, but we didn't photograph it because of the box.
9 We photographed it because of the plastic bags on top with the
10 white residue in it. I know digital scales. We have a dozen of
11 them in the drug unit. This is not the box of digital scales.
12 But this is a box. But it wasn't taken because it's an air
13 mattress box.

14 Q Okay. I understand. I'm not trying to confuse you.

15 A I'm with you.

16 Q We're just talking about taking photographs of all the
17 evidence.

18 A We took a photograph of the baggies in a box where the
19 baggies were on. It's like a table.

20 Q I understand. I understand. So let's talk a little
21 bit more about that residue.

22 A Okay.

23 Q So we are talking about the residue you have on this
24 air mattress box?

25 A Yes, ma'am.

1 MS. BURRIS: Your Honor, I would like to admit
2 defendant'S exhibit one into evidence.

3 THE COURT: Defendant's exhibit one is in evidence
4 without objection.

5 (Defendant's Exhibit One, photograph, received in
6 evidence as of this date.)

7 Q Let's talk a little bit about it. So you took a
8 picture and you used that box in which you found at
9 Sandpiper Drive and you indicated there were baggies with
10 residue, right?

11 A Yes, ma'am.

12 Q Did you actually send those plastic baggies of residue
13 to the chemist to test to see whether or not there was actually
14 any drugs in it?

15 A I was not the evidence custodian, Investigator
16 Burkhart. We wouldn't send everything in, but normally if you
17 have large bags of drugs they won't test the residue because the
18 labs are so overwhelmed. They would do the bigger bags. They
19 won't do residue bags if you got big bags of dope. They won't
20 do it.

21 Q Okay. Well, then let's not talk about the residue but
22 let's talk about the bags and talk about whether or not these
23 bags were actually fingerprinted because if you have residue at
24 some point somebody actually touched those plastic bags with the
25 residue in it because they had to actually hold it in their hand

1 at some point and put the drugs in it or take the drugs out,
2 right?

3 A Yes, ma'am.

4 Q Right.

5 A I didn't finish.

6 Q Let me ask the question.

7 A Go ahead.

8 Q So my question to you is were these bags fingerprinted
9 or this box, specifically the bag, was it fingerprinted to see
10 if anyone's fingerprints on it specifically in this case today
11 Mr. Shawn Bisnauth, whether or not his fingerprints were on that
12 bag?

13 A We normally don't finger -- we did not fingerprint
14 those. We normally don't fingerprint boxes and baggies at
15 person's home because they touch things at their homes. Out of
16 abundance of caution we did fingerprint the Tupperware dish and
17 DNA on the Tupperware dish that was in the closet with the big
18 drugs, but we didn't do all these items in their house because
19 it could be one hundred and one reasons why he touched that box.
20 It's in his house.

21 Q Right. So let's talk about not the box but let's talk
22 about the baggies because isn't it true that it's easier to lift
23 fingerprints off of plastic then it is a box?

24 A Oh, absolutely --

25 Q Absolutely.

1 A Absolutely not.

2 Q You said it is not?

3 A A box is slick. You can get prints off a box really
4 good. You can't -- it's almost impossible to get prints off a
5 baggie.

6 Q Okay, so did you fingerprint the box?

7 A No, we didn't. It's in his house. It's in his garage.

8 Q Okay. But now you have been doing this 41 years.

9 A Yes, ma'am.

10 Q And it's important, if you believe that this is Mr.
11 Bisnaught's home, isn't it important to do things like
12 fingerprint, fingerprint identification? Isn't that somewhat of
13 a certain way that you can actually say that this was handled by
14 Mr. Bisnauth; yes or no, fingerprints? Fingerprints?

15 A No, not if it's in his home. If it's out on the street
16 somewhere maybe, but not in his home.

17 Q Let's talk about it Mr. Brown. Now, no one person has
18 the same fingerprints isn't that true? No one person? We all
19 have different fingerprints?

20 A And DNA, that's correct.

21 Q And DNA, right?

22 A Yes, ma'am.

23 Q That means that if you and I went to go get tested and
24 we went to gp get our fingerprints tested and they wanted to
25 know whether or not we were involved in a crime and we suspects

1 as close as we may be my fingerprints are going to be totally
2 different from your fingerprints, isn't that right?

3 A Yes, ma'am.

4 Q And your fingerprints is going to be totally different
5 from your sister's fingerprints, isn't that right?

6 THE COURT: Don't make a speech. Ask a question.

7 MS. BURRIS: Yes, sir.

8 A Yes, ma'am.

9 MS. BURRIS: Yes, sir.

10 Q Isn't that true?

11 A Yes, ma'am. They're different.

12 Q Okay. So you agree that the fingerprints -- we could
13 have actually fingerprinted the box?

14 A It's his box. His prints should be on there. He would
15 probably said it was if it was so we don't prints boxes at
16 people's homes.

17 Q Okay. Now let's talk about what has been admitted as
18 exhibit -- as prosecution or State's solicitor's exhibit two,
19 right. You talked about the medication?

20 A We didn't print those either.

21 Q You didn't fingerprint them?

22 A Not his medication bottles.

23 Q Okay. Okay. So you did not test these but that wasn't
24 my question.

25 A Oh, I'm sorry.

1 Q That's okay. So my question to you is do you know
2 anything about these medications Metform and Hydrocodone?

3 A I didn't testify. I only testified what was written on
4 there about what -- I didn't want to get into his medications in
5 front of the jury. I just testified what the label said, not
6 what type drugs they are because it's his medications.

7 Q Do you know anything about diabetes, chronic type 2? Do
8 you know anything about that?

9 A I know one of them is pain pills, the hydrocodone. I I
10 do know that. But the other stuff, I don't know the other
11 drugs.

12 Q Okay.

13 A I don't know what they are used for. It's not
14 necessarily the type drugs. It's the fact that it's in his
15 bedroom with his name on it and it's daily use. Not the type
16 drugs.

17 Q Okay, I hear you Mr. Brown. All right, Mr. Brown, on
18 these State's Exhibit Two, which was flashed up on the screen --

19 A Yes, ma'am.

20 Q -- by the State. One of the things that you said is
21 they were his medications. Now his address is actually on this
22 medication, isn't it?

23 A Let me see.

24 Q Because you wanted to make sure we show everything to
25 the jury --

1 A Yes, ma'am.

2 Q -- in it's entirety.

3 A Oh, that's is his mother's address.

4 Q That's his mom's address?

5 A That's not his address.

6 Q And you said his mother lived earlier in Newport,
7 right?

8 A Well, that's what Lashunda said.

9 Q That's what Lashunda said.

10 A And said his mother lived in Newport. They did been in
11 this house two months together. Shawn and Lashanda been in this
12 house for two months so his medication still had his mother's
13 address. His car had his mother's address on the Mercedes too?

14 Q Okay. Was that Newport or Rock Hill?

15 A I don't know where this is at. I just know she said it
16 was in Newport.

17 Q Thank you Mr. Brown.

18 A But Newport is Rock Hill I think technically. But as
19 far as mailing address I'm not sure. Does Newport have it's own
20 zip code? If they do I don't know.

21 Q Mr. Brown.

22 A Yes, ma'am.

23 Q You told this jury that you had done a little bit I
24 guess background and you pulled some driving records, right?

25 A I did on the Toyota and on the Mercedes, on Mr.

1 Bisnauth and on Miss McMoore. I did do that.

2 Q Okay, and so when you looked at his ten-year driving
3 record it actually had his address as Tributary Drive, Rock
4 Hill, didn't it?

5 A Yes, everything is still listed at his mother's house;
6 his driver's license, his car, yes. The answer is yes.

7 Q Okay.

8 A They've only been in the house for two months.

9 Q Okay. So you also looked on his driver's license. His
10 driver's license had Tributary Drive too, right?

11 A Yes, ma'am. Everything -- everything had that except I
12 don't know about the correspondence in his house, but that
13 probably did too. Everything in his mother's address in think
14 only been in that house for two months.

15 Q Okay. Now, you testified in regards to some documents,
16 with his address on it. They were found at Sandpiper
17 Drive, do you remember that?

18 A Documents in his residence. I don't think I said with
19 his address. If I did I misspoke. It's in his residence with
20 his name on it, credit cards which would not have the address.
21 Some other documents, some other correspondence was in his
22 bedroom, yes, ma'am.

23 Q Okay. Now you had the opportunity to interview
24 Lashunda, right?

25 A Yes, I talked to her.

1 Q I will get back to that other question in one second.
2 Let me back up.

3 State's Exhibit One, these are clothing. You actually took
4 that picture yourself didn't you Mr. Brown?

5 A Yes, ma'am.

6 Q Did you ever actually think to look at each one of the
7 clothing to see whether or not these clothing actually belonged
8 to Mr. Shawn Bisnauth? Anything. Because you had three people
9 there. You had Neco Tucker, you had Antonio Vasquez who at some
10 point you documented lived at

11 MR. HOGGE: Objection, is this a question?

12 THE COURT: Don't make a speech. Ask a question.

13 MS. BURRIS: Yes.

14 Q One question at a time.

15 A Yes, ma'am.

16 Q Okay. So, did you actually take these clothes off the
17 hangers to see whether or not they would have fit Shawn
18 Bisnauth?

19 A I did and they do. And the other two young men were
20 slender. Danny's size. It was not -- I didn't see any clothes
21 Investigators Burkhardt's size. I saw clothes Shawn Bisnauth's
22 size, larger clothes and I saw dresses about the same size as
23 Miss Lashunda McMoore. I didn't see any -- they could have been
24 there. I didn't see any smaller clothing. I got a little
25 weight on me too.

1 So these young man -- the clothes were not their clothes. It
2 was Shawn's clothes.

3 Q Well, how do you know?

4 A Well, the size was right and it's his bedroom and she
5 said it was his bedroom and his was paperwork about his bedroom
6 and the clothes fit --

7 Q But don't --

8 A -- and I saw him coming and going several days.

9 Q But these days young man are actually wearing their
10 close big, aren't they.

11 A Not that big.

12 Q Okay.

13 A They're his size. Shawn and I are in the two hundred
14 hundreds. These guys are in there one fifties or something.

15 Q Okay, Mr. Brown, you actually took those clothes off
16 and you actually pulled them out, but you guys didn't think to
17 take a picture of them to see whether or not they were clothes
18 that actually fit Shawn Bisnauth?

19 A I didn't pull the clothes off the hangers. I just look
20 at the sizes. I did that because I had been watching him for a
21 few days. I knew he was fairly heavy. I did exactly why you
22 are asking me today. It didn't fit the young men. It fit him.

23 Q So you didn't think to actually take a photo of what
24 you did pull out?

25 A I didn't pull it out. I just looked at the size and

1 the size was much too large for these two young men.

2 Q How long did it take you to do that?

3 A Use a minute or so just to look. Could I have taken
4 photograph, I could have.

5 Q There's a lot of clothes isn't it?

6 A Yeah, you go down the list and they're all pretty much
7 the same size which means that Shawn had more than one outfit
8 there.

9 Q Okay, and was the closet full?

10 A It was not that -- you could see some of the hangers
11 had some ties and things. It was pretty full. It had a large
12 Tupperware thing at the bottom. Had some clothes. Had some
13 more clothes over to the right and there was a Tupperware dish
14 from the kitchen, and it was actually covered -- it was actually
15 covered by a dress hanging down. A long black dress.

16 Q The Tupperware dish was?

17 A Yes. Not like someone was trying to hide it but the
18 dress was over top of it.

19 Q So the dress was over top of the Tupperware dish we're
20 talking about in which the heroin and meth were found, right

21 A And cocaine, yes ma'am.

22 Q And cocaine, right. And was that Tupperware dish
23 actually fingerprinted?

24 A It was.

25 Q And were there actually any latent prints lifted off of

1 that Tupperware dish?

2 A And DNA.

3 Q I'm sorry.

4 A We did fingerprints and DNA.

5 Q Okay, you did fingerprints and DNA?

6 A Yes, ma'am.

7 Q Was there any DNA on that yellow Tupperware dish?

8 A No, ma'am. It had been wiped clean.

9 Q It had been wiped clean?

10 A Yes, ma'am.

11 Q How can you testify to that?

12 A Because there was nothing on it. No ridge detail, no
13 DNA. No nothing. We wear gloves and when the DNA lady ran the
14 DNA and when the fingerprint guy ran the fingerprints there were
15 no ridges, no nothing on that Tupperware dish.

16 Q Okay, so it had been wiped clean and the other baggies
17 that you had tested -- not these baggies.

18 A I'm sorry.

19 Q Any other baggies you had tested they had been wiped
20 clean too?

21 A I'm sorry. Can you ask me that again?

22 Q Sure. So you indicate that the Tupperware dish that
23 you had chemically tested for DNA and fingerprints had been
24 wiped clean, right?

25 A Yes, ma'am.

1 Q And also the plastic bags that you had tested they had
2 been wiped clean too?

3 A We didn't test anything other than the Tupperware. We
4 don't test in the people's homes and their bedrooms. In this
5 case I asked Investigator Burkhardt to do the DNA and the
6 fingerprints on the Tupperware dish that had the large amounts
7 of drugs in there. So we sent it in to be done. Whenever it
8 came back months later it came back negative results. We tried.

9 THE COURT: Let me ask you something. I'm just
10 trying to picture what you're saying. The Tupperware
11 dish are you talking about a dish like you eat food
12 off of or are you talking about a container that you
13 store things in or what.

14 THE WITNESS: Yeah, that's my fault Your Honor.
15 It's a container that has a lid on it. Large enough
16 to you put a meal in it if someone wanted to take it
17 to work with them.

18 THE COURT: That's what I was trying to picture.
19 You kept calling it a dish. Was trying to figure out
20 what you were talking about.

21 THE WITNESS: It's container where a lid that snaps
22 on.

23 Q You said you saw some neckties too?

24 A Well, I don't remember seeing neckties. I thought I
25 saw them in this photograph. I think that's a necktie but I'm

1 not sure. I don't remember seeing neckties. I mean don't
2 remember seeing neckties that day. In the photograph you asked
3 me about neckties. It looks like a necktie hanging from this
4 hanger to me, but it may not be.

5 Q I am talking about what you saw that day.

6 A That day, I don't remember seeing neckties that day. I
7 did look at the photograph that I took and it like a necktie
8 hanging there. That's what I am referring to.

9 Q Do you remember whether or that day or you just don't
10 remember?

11 A I don't remember neckties.

12 Q Okay. Now, I am going to show you what is being marked
13 a Defendant's Exhibit, and I'll have this marked if there is not
14 any objection. (Shown to Ms. Hamilton.)

15 No objection from Miss Hamilton, Your Honor.

16 (Defendant's Exhibit Two, photograph, marked for
17 identification as of this date.)

18 MS. BURRIS: If I may approach the witness?

19 THE COURT: Yes.

20 MS. BURRIS: Thank you.

21 Q Mr. Brown, I am going to show you what has been marked
22 as Defendant's Exhibit Two. Are you familiar -- this is all the
23 documentation we're talking about finding at Sandpiper
24 Drive?

25 A Well, some of it, yes.

1 Q And you also mentioned and I am going to show you what
2 is being marked as Defendant's Exhibit Three if there's no
3 objection.

4 THE COURT: So you are going to offer two and
5 three. Any objection to either one of those.

6 MS. HAMILTON: No objection Your Honor.

7 THE COURT: All right, in evidence without
8 objection.

9 (Defendant's Exhibit Two and Three, Photographs,
10 received in evidence as of this date.)

11 MS. BURRIS: If I may approach?

12 THE COURT: Go ahead.

13 Q So these are the documents that you said you actually
14 found in Sandpiper Drive, right?

15 A Yes, investigator Burkhart. Yes, I was there and saw
16 it.

17 Q Okay, so Mr. Burkhart found --

18 A He recovered these items, yes.

19 Q He recovered those items?

20 A Yes, ma'am.

21 Q Okay, but you were there because you were co-agent?

22 A I saw him recover it.

23 Q Okay. And so you are familiar with what Mr. Burkhart
24 actually recovered on that particular day in Defendant's Exhibit
25 Two and Three, right?

1 A Yes.

2 MS. BURRIS: Your Honor, the defense would like
3 to admit into evidence --

4 THE COURT: I already said they were in evidence
5 without objection.

6 MS. BURRIS: Okay, thank you.

7 Q Now, Mr. Brown, on this documentation, the two pieces
8 of mail at Sandpiper Drive what does it read?

9 A Shawn Bisnauth, is it Tributary Drive?

10 Q Yes, sir.

11 A Rock Hill, South Carolina.

12 Q Okay.

13 A So these were found in his bedroom, yes, it had his
14 mother's address on it.

15 Q Okay.

16 A Now Shawn was staying there overnight every night. He
17 had been there for two months but this is his mother's house.

18 Q How do you know he was staying there overnight?

19 A Because I was there at midnight when his cars were
20 parked and I was there at eight in the morning when he got up
21 and walked out.

22 Q What day was that?

23 A The entire week before.

24 Q Okay, and you put that in the report?

25 A The surveillance -- somewhere in the surveillance

1 because the search warrant was issued a week prior. So, I was
2 doing surveillance before the search warrant. Some of that is
3 in the report about doing surveillance and I saw him leave the
4 house. It's in the report, several times.

5 Q But now in the report you also stated that he left the
6 house and didn't return, didn't you?

7 A The day before, Wednesday, because we were going to do
8 the search warrant the day before but he went south instead of
9 north so I choose not to do it the day before.

10 Q Mr. Brown, if you did surveillance for I think you said
11 thee days or a week?

12 A I did it for more. At least every day for the week
13 before we did the search warrant. Six days straight.

14 Q And it was consistent, right?

15 A Ma'am?

16 Q It was consistent like you did surveillance?

17 A No, it was spot surveillance because I had a lot going
18 on, but I would go by six o'clock in the morning his Mercedes
19 would be there. I go back midnight his Mercedes would be there.
20 I followed him leaving. I think it was his uncle's Toyota. He
21 left in his Toyota and he had Lashunda with him. I followed him
22 to the gas stations. I followed him here and there, just trying
23 to develop my case and so -- I'm sorry, I guess that's what you
24 are asking.

25 Q That's right. But you actually took notes on that

1 particular date to, didn't you?

2 A The Wednesday before when they left, I think it was
3 around 12 noon they came out. They got into the Toyota. They
4 went to gas station and left the gas station and went south on
5 Cherry like they were headed in a south direction instead of a
6 Charlotte direction, so I didn't stop them that day. I let them
7 go. And then the next day, eight o'clock in the morning they
8 both came out at eight o'clock in the morning and left and went
9 towards Charlotte that morning.

10 So, two days in a row we saw them come out of the house and
11 leave.

12 Q Right, but you can't say for the week I guess you were
13 conducting surveillance that Mr. Shawn Bisnauth actually went to
14 that house every night can you?

15 A Well, Friday before we followed him back to the house
16 and he stayed in the house and I sit on the house for hours and
17 -- up to midnight, and he was still there at midnight when I
18 left that Friday before. And I actually watched him go in the
19 house and he was still in the house at midnight.

20 Q Okay, so let's talk about -- are we talking about
21 Friday to Friday?

22 A Yeah, the Friday before. The chase occurred on
23 Thursday morning. We found the drugs on Thursday morning. The
24 Friday before I followed him back to the house.

25 Q Okay. So let's talk Friday to Thursday, right?

1 A Yes, ma'am.

2 Q Friday to Thursday. You conducted surveillance Friday,
3 you've already said that?

4 A Yes, ma'am.

5 Q You conducted surveillance Saturday?

6 A I went by there Saturday and Sunday.

7 Q You went there Saturday and Sunday. You put that in
8 your report?

9 A I didn't stay all day. I went by there Saturday and
10 Sunday.

11 Q You put that in your report?

12 A I said we conducted surveillance. I don't know if I
13 said exactly what days I went by there. I know I said we went
14 by there on Friday. Saturday and Sunday may not be in the
15 report those actual days. I'm not sure. We did -- I did a week
16 of surveillance on his house the week before we did the search
17 warrant.

18 Q Don't you think that's important in your investigation?

19 A I think we said we did a week surveillance. I don't
20 remember saying we went by Saturday and Sunday. I went by there
21 Saturday and Sunday.

22 Q As co-agent?

23 A Ma'am?

24 Q As the co-agent?

25 A I'm sorry, I didn't understand what you're saying.

1 Q As the co-agent? Co-agent?

2 A I'm the case agent and the supervisor, or co-case
3 agent.

4 Q Would it surprise you that if I told you on the case
5 file summary that you had documented, and you looked at and you
6 mentioned that you actually documented you were the case agent
7 that from Friday to Monday -- no, I'm sorry. Friday to
8 Wednesday there is no documentation of you conducting
9 surveillance at Sandpiper Drive at all?

10 A I don't -- Friday I did surveillance pretty much all
11 day long. Wednesday pretty much all day long. I think they
12 went out town Wednesday, but the days before Sunday, Monday,
13 Tuesday and Wednesday I'm not sure in that particular case
14 summary if it says I did surveillance or not.

15 Q Okay.

16 A I'm not sure.

17 Q So we're not documenting Saturday, Sunday, Monday,
18 Tuesday is what you are saying?

19 A I guess it's on there I was there on Friday and the
20 with Wednesday before and then Thursday when they left. So
21 that's three days it actually says that we was there. The rest
22 of the days I spot checked and road by. I remember doing that.

23 Q And Wednesday is the day that you saw Mr. Bisnauth
24 leave and didn't return to that address?

25 A He and Miss McMoore left at 12 noon and at midnight

1 that night they still had not returned home. They were gone
2 several hours that day. His car was still in the driveway, his
3 Mercedes, but they took the Toyota which I believe belongs to
4 his uncle. I'm not sure. It belong to a subject named Mills. I
5 believe his mother's name name is Mills dash Brown.

6 Q Okay. Now Mr. Brown, you had the opportunity to -- you
7 came in contact with Mr. Antonio Vasquez, isn't that right?

8 A He was young man who opened the door when we got there.

9 Q Okay. All right, on this photograph, what has been
10 marked and admitted into evidence as Defendant Exhibit Three, is
11 that Mr. Antonio Vasquez?

12 A He looks the right size. He's very slender and
13 Lashonda said that was her brother from Danville, Virginia.
14 She's from Virginia. It looks like him. I don't know if it's
15 him. He's the right weight because on the clothes size you can
16 tell he's like 130 pounds, 150 pounds maybe. That looks like
17 him. I saw him one time for just a few minutes. So I don't
18 remember. And this is a year and a half later. I don't
19 remember if that's him or not. He does fit the weight size.

20 Q Okay. So in your investigation Antonio Vasquez was in
21 Sandpiper Drive, isn't that true?

22 A For that day, yes.

23 Q For that day. Did you ever ask to see his
24 identification as part of your investigation to see whether or
25 not he lived at Sandpiper Drive?

1 A He said he lived in Danville, Virginia and he wrote his
2 address down. I didn't look at his identification.

3 Q So you just took his word for it?

4 A I did not see him at the house during all the
5 surveillance. I did take his word for it and he wrote the
6 address down. He said from Danville, Virginia. He was not the
7 target of investigation. I really wasn't concerned about where
8 he lived and who he was because he was not the target of the
9 investigation.

10 Q So he and Lashunda are from the same area, right?

11 A Well, they are both from Virginia. It's a large state.

12 Q Right.

13 THE COURT: Can you just try to answer the
14 question, yes or no, if you can.

15 THE WITNESS: Yes, sir.

16 THE COURT: If you need to explain it you can, but
17 try to answer it yes or no. Okay?

18 THE WITNESS: Yes, sir. I understand.

19 THE COURT: If you need to explain the answer you
20 can.

21 THE WITNESS: I understand.

22 Q So him and Lashunda were from Virginia?

23 A That's what the said.

24 THE COURT: Yes?

25 THE WITNESS: Yes, that's what they said. Thank

1 you, Your Honor, I'm sorry.

2 A Yes, that's what they said.

3 Q Okay. And Lashunda as you testified earlier said that
4 was her brother, right?

5 A Yes, that's what she said.

6 Q All right. And we don't know if that was her
7 biological brother or somebody she calls her brother like
8 "brother" you know, how we call people brother?

9 A Yes, that is correct.

10 Q Okay, because you didn't actually inquire further into
11 that, right?

12 A I did not.

13 Q Okay. You mentioned earlier that you saw some clothes
14 or something there, didn't you, that belonged to Mr. -- did you
15 see any clothes belonging to Mr. Vasquez?

16 A I did not.

17 Q Okay. Now, there were drugs -- let's put it out there
18 -- there were drugs actually found in other parts of the house
19 wasn't there?

20 A I think this was some marijuana found in the other
21 parts of house. The two bags of cocaine, the meth -- yes, there
22 was some marijuana I think in the other parts of the house. The
23 big drugs were all in Shawn's bedroom.

24 Q Okay. So let's talk about it. There was also
25 marijuana found in that master bedroom wasn't it?

1 A Yes, a small amount.

2 Q There was also marijuana actually found I believe in
3 the master bedroom floor or closet?

4 A Yes, but I don't know where.

5 Q And when Antonio Vasquez let law enforcement into the
6 house Antonio Vasquez actually had marijuana on him too, right?

7 A Yes, ma'am, what we call a smoke bag. A small amount.
8 That's why I wrote him a traffic ticket.

9 Q Okay, and you mentioned that it looked liked marijuana
10 was being smoked in the house?

11 A Yes, ma'am.

12 Q But isn't it true that Shawn Bisnauth wasn't in the
13 house at that time, yes or no?

14 A No, not at the time. He was in the house at eight
15 but he left.

16 Q Okay. Now, Mr. Brown do you agree, and I believe you
17 already answered, the 2007 Mercedes is register to Shawn
18 Bisnauth?

19 A Yes, it is registered to him.

20 Q At his mother's address so you say, but at his address
21 Tributary Drive, Rock Hill, is your testimony?

22 A Yes, ma'am.

23 Q And you agree that his driver's license has
24 Tributary Drive, which is his address, right?

25 A Yes, ma'am.

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1 Q Now, you had the opportunity to sit Antonio Vasquez .
2 down when you went in and secured the residence because you were
3 agent or co-agent, right?

4 A Yes, ma'am.

5 Q And you sat the other guy down, Neco Tucker, who was in
6 the car with Lashunda McMoore, you sat him down in the house
7 too, didn't you?

8 A Yes, ma'am.

9 Q Okay. And you said that they said that their address
10 they were from Virginia, right?

11 A Yes, ma'am.

12 Q Antonio Vasquez was from Virginia, right?

13 A I think he said Danville, but I'm not sure it was
14 Virginia.

15 Q Danville, Virginia?

16 A Yes, ma'am. Virginia they wrote their names on the
17 form somewhere. I don't have the form.

18 Q Okay.

19 A They actually wrote it themselves, yes, ma'am.

20 THE COURT: You told us that several times. Just
21 try to keep it --

22 THE WITNESS: Yes, sir, I understand.

23 THE COURT: -- responsive to the question.

24 THE WITNESS: Yes, sir.

25 Q And in your 41 years of experience, Mr. Brown, you

1 understand that it's important that you write down all the
2 suspects in the case, right?

3 A Yes, ma'am.

4 Q And in the case report summary that I'm looking at
5 right here that was printed on -- I'm sorry, that was done at
6 10/15/2015 the date of the incident, okay, which is one of the
7 first case reports summaries drafted, you indicated that Antonio
8 Rafael Vasquez was a suspect, do you remember that?

9 A You're referring to the police incident report, yes,
10 ma'am.

11 Q Okay. And also on this report you indicate that
12 Antonio Rafael Vasquez, the suspect, lived at Sandpiper
13 Drive, Rock Hill, South Carolina, 29732, isn't that correct?

14 A It's on the report, yes, ma'am. I did not put it on
15 the report.

16 Q Okay. So what you're saying is one of the other
17 officers wrote Antonio Vasquez's address as Sandpiper
18 Drive?

19 A Yes, ma'am when they do that it police report they must
20 put an address on and the answer is yes, they did put that
21 address on it.

22 Q Right. So Mr. Brown, as the case agent or co-case
23 agent if you didn't think that Antonio Rafael Vasquez lived at
24 Sandpiper Drive don't you think it's important to actually
25 amend the report; yes or no?

1 A No.

2 Q You don't think it's important to amend the report?

3 A Actually I did not -- yes, probably should have or
4 could have, yes ma'am. The answer is yes. I did not know that
5 until yesterday when I looked at it. It was an oversight on my
6 part. I did not know that they had put that address on that
7 report, of using her brother's name for that report, yes, ma'am.

8 Q And you all have six officers on the scene, right?

9 A Probably. Yes, ma'am.

10 Q All right. According to the case report summary?

11 A Probably, yes, ma'am. I don't remember. Probably.

12 Q So it's possible that Antonio Vasquez could have given
13 Sandpiper Drive to one of the other six officers is what
14 you are saying?

15 A No, ma'am. I was present in the room with him.

16 Q With Antonio Vasquez?

17 A Yes, ma'am.

18 Q Okay. Well, how did the address end up there?

19 A An address must go on the report and I can only assume.
20 I don't -- an address must go on the report so the officer
21 listed that address I guess.

22 Q But it's your testimony to the jury today that he lived
23 in Danville, Virginia then why not or another one of your drug
24 enforcement unit officers documented the report?

25 A I'm just saying the address -- what I'm saying is what

1 he said where he lived at. You asked me what his address was.

2 I am telling you what he told me what his address was.

3 Q Now, you said you had opportunity to speak with
4 Lashunda McMoore?

5 A Yes, ma'am.

6 Q Okay. And you kept saying Lashunda McMoore said that
7 Shawn Bisnauth actually lives at , right?

8 A Yes, ma'am.

9 Q All right. But Lashunda McMoore also told you that she
10 lived in Charlotte in an apartment, right?

11 A She -- part time yes, ma'am. She said she and Shawn
12 moved in that house together two months earlier and she had an
13 apartment with two other ladies in Charlotte that she still
14 would go and stay when she went to school.

15 Q All right. So she told you that she lived in
16 Charlotte, part time?

17 A Yes, ma'am.

18 Q And she lived there with other roommates, right?

19 A Two other ladies she said.

20 Q And she actually according to your testimony earlier
21 she actually told you that she and Shawn Bisnauth have children
22 together?

23 A No, ma'am.

24 Q Okay.

25 A It's her children. She said she had two children.

1 Q Okay. Did she tell you what age they were?

2 A I don't remember. I think she did, but I don't
3 remember.

4 Q Did she tell you whether they were babies or
5 elementary or middle school?

6 A I documented what she told me but I don't remember.

7 Q Okay. Where did you document that at?

8 A I documented what she told me. Most of it. But no,
9 ma'am, I don't remember their ages. I don't remember asking the
10 age. I may have. I usually do.

11 Q This is not the first time you had contact with
12 Lashunda McMoore is it on this day?

13 A On that day?

14 Q That's not the last time that you had contact with
15 Lashunda McMoore?

16 THE COURT: You said first or last. Which one?

17 MS. BURRIS: I apologize.

18 Q This is not the only day that you had contact with
19 Lashonda McMoore, right? You had contact with her since,
20 haven't you?

21 A About the car, yes, ma'am. I think so she called me.

22 Q Okay. And you all had a conversation in regards to her
23 children being in middle school, right?

24 A I don't remember that. I remember her calling me about
25 the car.

1 Q Lashunda McMoore also told you she didn't know anything
2 about the drugs, right?

3 A That's right, yes, ma'am.

4 Q But Lashunda McMoore was charged with trafficking
5 heroin?

6 A Yes, ma'am.

7 Q Lashunda McMoore was charged with tracking
8 methamphetamine?

9 A Yes, ma'am.

10 Q Lashunda McMoore was charged with possession with
11 intent to distribute cocaine?

12 A Yes, ma'am.

13 Q She also was charged with possession of marijuana
14 wasn't she?

15 A I don't know. Maybe. I don't doubt it. I don't know.
16 The answer is I don't know.

17 Q All right. Mr. Bisnauth was also charged with
18 trafficking heroin?

19 A Yes, ma'am.

20 Q Mr. Bisnauth was also charged with trafficking meth?

21 A He was.

22 Q And possession with intent to distribute cocaine?

23 A Yes, ma'am.

24 Q And failure to stop?

25 A Yes, ma'am.

1 Q Mr. Brown, you were in the courtroom when Lashunda
2 McMoore was offered a plea deal from the State to come and
3 testify, weren't you? To come and testify on behalf of the
4 State?

5 MS. HAMILTON: Objection, Your Honor.

6 THE COURT: Well, no, I'll allow the question. As
7 I understand the question, were you in the Court when
8 she plead guilty to the charges.

9 A Was I was in court when she plead guilty?

10 Q Yes, you were here as the case agent on the case.

11 A I probably was here when she plead guilty.

12 Q Okay. You were here --

13 A I don't remember specifically being in the courtroom
14 but I probably was since I was the case agent. I don't remember
15 if I was in here or not when she actually plead. I don't
16 remember if I was actually in the courtroom when she plead, but
17 I was case agent I probably was. I don't deny it.

18 Q Mr. Brown that was less than a month ago wasn't it?

19 A Yes, ma'am. I have a lot going on and I don't remember
20 being in the courtroom when she plead guilty.

21 Q But you remember --

22 A But I don't deny it.

23 Q You remember Lashunda McMoore, the State having an
24 agreement with Lashunda McMoore that she would be here and
25 testify in this case in exchange for a possession with intent to

1 distribute cocaine pled down to possession of cocaine and she
2 plead guilty and said she would be here to testify on behalf of
3 the State?

4 A Yes, I do remember she pled guilty to cocaine.

5 MS. HAMILTON: Your Honor, may we approach.

6 THE COURT: I will allow that.

7 A Yeah, I remember she plead guilty to cocaine. I don't
8 remember if I was in the courtroom at the time.

9 Q And there was a plea agreement made with her that she
10 would be here and testify in this case and tell everybody what's
11 going on?

12 A I don't know about the plea agreement. That is between
13 the lawyers. I just know she plead to the possession of
14 cocaine. I don't know what the deals were if there were any
15 deals.

16 Q And there is a plea agreement that her trafficking meth
17 and trafficking heroin charges were going to be dismissed if she
18 come and testify on behalf of the State, right, or don't testify
19 at all?

20 A I don't --

21 THE COURT: If you don't know say you don't know.

22 THE WITNESS: Sir?

23 THE COURT: Do you know or not?

24 A I don't know.

25 Q So you don't know what happened to the cases in which

1 you made the trafficking heroin and trafficking meth against
2 Lashunda McMoore?

3 A I do know the case was dismissed. It was Shawn's drugs
4 not her drugs and I do know the case was dismissed.

5 Q All right. So, now what you are saying is they were
6 Mr. Bisnauth's drugs and I am going to have this marked as
7 Defendant's Exhibit Number Four.

8 (Defendant's Exhibit Four, Photograph, marked for
9 identification as of this date.)

10 Q I will show you what has been previously been marked
11 defendant's exhibit four. As the case agent or co-case agent
12 are you familiar with this photograph? (Photograph shown to the
13 witness)

14 A No, I really don't.

15 Q So you don't remember that photograph being taken?

16 A No, I don't know this photograph.

17 Q Okay, so you were all in closet, master bedroom closet,
18 but you don't remember that photo being taken of the closet?

19 A No, ma'am, I don't. I don't know what this photograph
20 is. I don't know.

21 Q Did you actually go and check all the closets in the
22 house Mr. Brown?

23 A No, ma'am.

24 Q So can you tell me a little bit about the lay out of
25 the house when you went in the house, at all, the lay out? How

1 many bedrooms? What was in each bedroom?

2 A When you walk in the front door --

3 Q Walk in the front door.

4 A -- the garage is to the right.

5 Q Garage is to right.

6 A The bedroom is to the right.

7 Q Okay, so I am going to show you since you're familiar
8 with the house and the set up.

9 A Yes, ma'am.

10 Q I will show you what is being marked as defendant's
11 exhibit five and the lay out of the house.

12 (Defendant's Exhibit Five, photograph, marked for
13 identification as of this date.)

14 Q When you walked into the house is that what you saw?
15 (Photograph handed to the witness.)

16 A No, ma'am. This is -- the house I walked in to had
17 carpet. It was not the best of shape.

18 Q Well, let's not talk about the carpet.

19 A No, ma'am. The answer is this don't look like it.

20 Q This don't look like the house?

21 A No, ma'am. No ma'am, I've never seen that picture
22 before. That don't look like the house I'm familiar with.

23 Q All right. Let's talk little bit about the house. Now
24 you said you walked in and you saw the garage.

25 A You walk in. It had carpet, it was not the cleanest

1 carpet. Straight back was the kitchen. It's similar to that.
2 Had a counter and then the bedroom was off to the right.

3 Q Right, and then the garage door was off to the --

4 A It would be off to the right. Facing the front door
5 the garage is to the right.

6 Q And to the left was another closet, right?

7 A I don't remember, I don't remember another closet. I
8 stood in the doorway of Shawn's bedroom, I don't remember
9 another closet, no, ma'am.

10 Q But what you do remember, is what you're saying is one
11 master bedroom closet, that's it?

12 A That's where I was standing. Yes, ma'am.

13 Q I'm sorry, yes?

14 A Yes.

15 Q But you looked at the entire case file, right?

16 A Yes, ma'am.

17 Q And you remember seeing those photographs when you sat
18 down with the assistant solicitor and the other five or six
19 police officers, right?

20 A I saw a stack of photographs and I looked through them,
21 but the one photograph you showed me I don't remember that one.

22 Q And some of those photographs you remember. Some of
23 the photographs you remember actually seeing a wig and a purse?

24 A They're were female -- yes, ma'am, there was
25 pocketbooks and female items there.

1 A Yes, I remember that.

2 Q Okay.

3 A I don't remember the photograph you showed me, but
4 there was a pocketbook, yes, ma'am.

5 Q And you even saw in one of photographs some diapers
6 didn't you?

7 A I don't remember diapers. She said she had kids.

8 Q But you remember when she stood in here and she plead
9 guilty and that was asked of her during the questioning from the
10 State?

11 MR. HOGGE: Objection, Your Honor. He already
12 answer he doesn't remember.

13 THE COURT: Ask another question.

14 Q Do you remember exactly what she said when the -- I'm
15 sorry, let me back up and slow down. Do you remember how
16 Lashunda McMoore answered, during the time that you were in here
17 when the State began to ask her questions on the record about
18 her charges?

19 A I know the deal. I don't remember -- I don't remember
20 being in here when she actually plead guilty. I remember the
21 deal.

22 THE COURT: So the answer is no, right.

23 THE WITNESS: No.

24 THE COURT: Ask another question.

25 Q Okay. Mr. Brown, I'm going to show you what is being

1 marked as Defendant's Exhibit six.

2 (Defendant's Exhibit Six, Photograph, marked for
3 identification as of this date.)

4 Q Now, I am going to approach the witness if it's okay.
5 I will show you what is being marked as Defendant's Exhibit Six.
6 It looks like that photograph was actually taken by you and it
7 actually has your initials on it Mr. Brown?

8 A Yes.

9 Q Okay, so you took that photo, right?

10 A Yes.

11 Q And that photograph is a makeup bag with makeup in it,
12 right?

13 A Yes.

14 Q And that photograph was actually found where?

15 A In the master bedroom closet with the clothes.

16 Q In the master bedroom closet?

17 A Yes, ma'am.

18 Q And that's fair and accurate depiction of what you saw
19 on that day?

20 A Yes.

21 MS. BURRIS: Your Honor, I would like to enter
22 into --

23 THE COURT: Any objection?

24 MS. HAMILTON: No objection.

25 THE COURT: Without objection in evidence.

1 MS. BURRIS: Thank you.

2 (Defendant's Exhibit Six, photograph, received in
3 evidence as of this date.)

4 Q Now, Mr. Brown, when asked during direct examination
5 from Miss Hamilton about monies that were actually found on
6 Lashunda McMoore, okay -- I apologize, monies that were found on
7 Shawn Bisnauth?

8 A Yes, ma'am.

9 Q You say you were sure it was \$500, right?

10 A Yes, ma'am.

11 Q And you were the one who actually took possession of
12 the \$500, right?

13 A Yes, ma'am.

14 Q And you counted the \$500?

15 A Yes, ma'am.

16 Q And you -- I'm not sure did you deposit the \$500 in the
17 bank?

18 A Yes, ma'am.

19 Q And you have a record of the monies being deposited?

20 A Yes, ma'am.

21 Q And the deposit slip from the Bank of York in which the
22 deposited money is in should be a part of this case file
23 summary?

24 A The seizure?

25 Q The seizure.

1 A Yes, ma'am, I'm comfortable with five hundred.

2 Q You're comfortable with five hundred?

3 A Yes, ma'am.

4 Q And there should be some documentation, because you've
5 been doing this for 41 years, and as you just stated there's a
6 seizure process?

7 A Yes, ma'am.

8 Q And in the seizure if you take someone's money one of
9 the things you do is you ask that individual to sign over what
10 they call affidavit, or you fill it out affidavit for seizure,
11 right?

12 A Yes, ma'am.

13 Q And in this particular case you didn't actually
14 document or fill out an affidavit for seizure did you?

15 A I don't remember. Somebody should have, but I don't
16 remember. The answer is I don't remember.

17 MS. BURRIS: If I may approach the witness.

18 THE COURT: Go ahead.

19 Q Affidavit for seizure?

20 A Oh, that's a blank one.

21 Q Yes, it's blank.

22 A It depends on the circumstances. Some times that is
23 filled out, yes.

24 Q Right, because you are actually taking someone's money
25 from them, right? So this is an affidavit, which is a sworn

1 statement indicating what monies you've actually taken from the
2 individual, right?

3 A Some seizures you do that and some you don't, yes,
4 ma'am.

5 Q Okay, well how do you distinguish what you document as
6 far as taking from the individual and what you don't? How do
7 you distinguish?

8 A No, ma'am, we document the money.

9 Q You document the money?

10 A But we don't always fill out this form.

11 Q How do you determine when you fill out the affidavit
12 for seizure and when you don't?

13 A That form if it's contested. If it is consent then you
14 don't fill out that form.

15 Q Okay, so what you are saying is he turn his \$500 over
16 to you, right?

17 A Yes, ma'am. Well, he didn't turn it over to us. When
18 he was arrested it was seized.

19 Q You took -- that's your answer, right?

20 A I'm sorry, I didn't understand.

21 Q Okay. Let me -- did he consent to give you the \$500 or
22 did you just take the \$500?

23 A We ceased the \$500. He had it on his person. We
24 seized it.

25 Q Did he consent?

1 A You're talking about a different process.

2 Q If he consents then you are suppose to also have him
3 fill out consents form that he signed his money over, right?

4 A I didn't understand what you said.

5 Q If he consents you are suppose to have him sign the
6 consent form to say that he's agreeing to turn his money over,
7 right?

8 A Yes, ma'am.

9 Q So you are so certain it was exactly \$500?

10 A It says 550 on some of the paperwork but I remember
11 500.

12 THE COURT: Did you actually take it from him or
13 did somebody else take it from him, what?

14 THE WITNESS: I took it, Your Honor.

15 THE COURT: Did you count it?

16 THE WITNESS: Yes, sir, \$500.

17 THE COURT: And you recall it was \$500.

18 THE WITNESS: Yes, sir.

19 THE COURT: Move on.

20 Q But it wouldn't surprise you if you documented in
21 evidence inventory sheet that it was \$550, right?

22 A I didn't do that but I saw that earlier. I saw it
23 earlier. Also on the search warrant return it says 550 but it
24 was 500. I didn't do that.

25 Q Okay. You're saying that you didn't fill out the

1 paperwork, even though you were the one who actually took the
2 money, but you did actually write your initials by the money
3 that you took from Lashunda McMoore, didn't you?

4 A I'm sorry what was the question?

5 Q You did actually document and put your initials by the
6 evidence sheet saying that you took money from Lashunda McMoore,
7 didn't you?

8 A I don't remember if I took the money from her or not.
9 I will be glad to look at the form.

10 Q Okay. I am going to show you -- if this will help your
11 recollection.

12 A Yes, ma'am.

13 Q Okay, is that your initial?

14 A No, I don't see.

15 Q At the very bottom?

16 A Someone typed my name their but it's not my initial.

17 Q So you didn't take the money from Lashunda McMoore?

18 THE COURT: Do you remember taking her money?

19 THE WITNESS: I don't remember taking her money,
20 Your Honor.

21 THE COURT: Ask another question.

22 Q Okay. But somebody took money from Lashunda McMoore,
23 didn't they?

24 A Yes.

25 Q And who actually does the deposit in the bank?

1 A The agent of the drug enforcement unit.

2 Q I'm sorry.

3 A One the drug officers has to by rule, by policy, has to
4 deposit the money.

5 Q Do you remember how much money was actually found on
6 Lashunda McMoore when she came back to her house,
7 Sandpiper Drive?

8 A Yes.

9 MR. HOGGE: Objection, this has been asked and
10 answered.

11 MS. BURRIS: It has not been asked and answered.

12 THE COURT: I don't recall that. Do you remember
13 how much money she had on her?

14 THE WITNESS: Yes, sir.

15 Q Okay, how much money did Lashunda McMoore have when she
16 arrived at her home?

17 A Two thousand, three dollars.

18 Q Two thousand, three dollars?

19 A Yes, ma'am.

20 Q And on this evidence inventory sheet it indicates that
21 only one thousand dollars was taken from her, right?

22 A Yes, ma'am.

23 Q And then you gave her back one thousand three dollars,
24 right?

25 A Yes, ma'am.

1 Q So why would you -- she had two thousand and three
2 dollars on her. Why would you take a thousand dollars and then
3 give her one thousand and three dollars back? Does that even
4 make sense?

5 A Yes.

6 Q Why would you do?

7 A After conferring with the prosecutor we agreed to give
8 one thousand dollars back.

9 Q Okay, let's talk about that. Prosecutor wasn't there
10 on October the 15th was she?

11 A I made a phone call.

12 Q You made a phone call?

13 A To the prosecutor.

14 Q Which prosecutor?

15 A Before I give money back I must confer with the
16 solicitor's office.

17 Q But you charged -- you charged Miss McMoore with
18 trafficking heroin, trafficking meth. Why would you give her
19 one thousand three dollars back and then kept the other thousand
20 dollars?

21 A We documented we took 2003. We gave one thousand and
22 three back. She consented over one thousand that we considered
23 to be drug money.

24 Q So a thousand dollars of the Lashunda McMoore's money
25 was drug money is what you said?

1 A She signed a form to that effect.

2 Q She signed a form to that effect?

3 A Yes, ma'am. A consent form.

4 Q Okay, do you have a copy of that consent form?

5 A I don't.

6 MS. BURRIS: Do you have a copy of that consent
7 form in your file?

8 MS. HAMILTON: It's not a part of this case, no.

9 Q So there should be a seizure file somewhere, right?

10 A Yes, ma'am. It's civil, but there is a civil seizure
11 file, yes, ma'am.

12 Q And so since you consulted with the prosecutor and the
13 prosecutor knows all about this then that should be a part of
14 the file, right?

15 A Not in Shawn's case. Maybe in McMoore's case.

16 Q Did you actually give any of the money back to Shawn
17 Bisnauth?

18 A I don't think so.

19 Q Okay. Now is there a receipt of you depositing the
20 thousand dollars into the Bank of York that you took from
21 Lashunda McMoore?

22 A There should be.

23 Q And you're saying it's in a file?

24 A Yes, ma'am, in the seizure file of Miss McMoore.

25 Q Now when you take money from any individual isn't there

1 a type of order of forfeiture that you have a judge to sign
2 saying you are taking money from somebody?

3 A Yes, ma'am

4 Q And you actually told me you did the order of
5 Forfeiture in Shawn Bisnauth's case and in Lashunda McMoore's
6 case?

7 A It should have been done.

8 Q It should have you been done.

9 A Yes, ma'am, I believe -- I believe it was.

10 Q But you can't produce it today can you?

11 A I can. I don't have it in the courtroom with me.

12 Q Let's talk about denominations. Isn't it true that as
13 a part of York County Multi-jurisdictional Drug Enforcement Unit
14 you fill this out (showing a document to the witness)

15 A Not always.

16 Q Not always?

17 A Yes, ma'am.

18 Q But sometimes in knowing how to identify drug money
19 isn't it true that you look at the different increments?

20 A Well, we use too.

21 Q Twenty dollars, a hundred dollars?

22 A The machine spits out 20 dollar bills now so we don't
23 use that any more.

24 Q So you guys don't use this anymore?

25 A We use that form.

1 Q So in this case you didn't document how many
2 denominations in monies Mr. Bisnauth had, right?

3 A It's \$500. I did document it.

4 Q Was it 500 or 550?

5 A Five hundred. I remember 500.

6 Q But it's document as 550, yes?

7 A On somebody else's paperwork, yes, ma'am.

8 Q Okay. So what you are telling me is that Mr. Bisnauth
9 also should have some type of order of forfeiture in his file
10 and I'm entitled to it because I am Mr. Bisnauth's attorney?

11 THE COURT: Don't make a speech. Ask a question.

12 MS. BURRIS: Yes, sir.

13 Q So Mr. Bisnauth should also have a file, right?

14 THE COURT: Do you know?

15 A He does have a civil forfeiture file, yes, ma'am.

16 Q That should have been turned over since it's a part of
17 this case, right?

18 A No, that's a legal -- we turned over the criminal file
19 that shows what was seized. Civil file I'm not sure about all
20 that. I'm not an attorney.

21 Q And you had the judge to sign the notice of seizure and
22 order of seizure?

23 A I did not. The solicitor's office would have.

24 Q Okay. Mr. Brown, do you remember recovering a tablet
25 and mini iPad out of the master bedroom on the floor.

1 A I don't, no, ma'am.

2 Q Okay. Do you remember the phones being recovered out
3 of the purse in the master bedroom closet?

4 A No, ma'am.

5 Q Do you remember the flip phone being found in the shoe
6 box in the master bedroom closet?

7 A No, ma'am. I know it's on the paper work but I don't
8 remember seeing it being recovered.

9 Q Is it because you weren't there and you didn't see it
10 recovered?

11 A I was there.

12 Q But you didn't see it being recovered?

13 A There was a lot of things being recovered.

14 Q But you said you were in the master bedroom during the
15 time, right?

16 A Yes. I saw items being recovered. I don't
17 specifically remember those items that you are naming that were
18 recovered.

19 Q One of the things you want to do especially when you
20 are recovering cell phones and tablets and iPads and things like
21 that, you want to see what data is in them, don't you?

22 A Yes, ma'am.

23 Q And one of the things that you want to do especially
24 with cell phones, we have the technology to be able to extract
25 data, text messages, and instant messages, phone numbers and

1 things like that off of the phone, right, cell phone?

2 A Yes, ma'am, if they're not locked.

3 Q Okay, if they are not locked. But now in many cases
4 you can also send especially law enforcement, you can actually
5 send a subpoena to the cell phone provider to get the data or
6 the daata, (phonetics) out of the cell phone isn't that correct?

7 A You can get certain data. You can't get text messages.

8 Q Okay, certain data?

9 A Yes, ma'am.

10 Q Right?

11 A Yes, ma'am.

12 Q So, you did not do that in this case, did you?

13 A I did not. No, ma'am.

14 Q So of the flip phone found in the shoe box in master
15 bedroom closet and the the two LG smart phones found in the
16 purse in the master bedroom closet, you do not know and you can
17 not the say that these smart phones or flip phones did not
18 belong to Lashunda McMoore, Antonio Vasquez or even Neko Tucker,
19 can you, because you don't even know what the inside or the
20 content of the data in the phone, do you?

21 A Yes, ma'am, I don't know.

22 Q Okay. Let's talk about the Samsung tablet and mini
23 iPad. Did you actually take time to open the iPad and the
24 tablet up to see what was on the iPad and tablet to see whether
25 or not it belonged to Lashunda McMoore or Antonio Vasquez or

1 Neco Tucker or what pictures were on it.

2 A I did not.

3 Q Would it surprise you if I tell you that if I turn on
4 one of those iPads today that it was just selfies of Lashunda
5 McMoore.

6 A It wouldn't surprise me, no, she lived there.

7 Q But you can not say in good conscious under oath that
8 Shawn Bisnauth owned any one of those cell phones, right?

9 A We didn't get his cell phone.

10 Q Okay. And you can not say that there was any drug
11 transaction or conversations about drugs on any of those cell
12 phones, iPads, tablets that belonged or involved Shawn Bisnauth,
13 can you.

14 A That's correct.

15 Q Now, when you go in to a house because you seem pretty
16 familiar with the layout of the house, and you mention you go
17 straight -- I think you say the kitchen is straight or the
18 dining room?

19 A Yes, ma'am.

20 Q Don't you think it's important to take a picture of the
21 inside of the house?

22 A Some times, yes, ma'am.

23 Q And you didn't do that in this case did you?

24 A No, ma'am.

25 Q Mr. Brown --

1 A I did not.

2 Q Okay. And Mr. Brown don't you think it's important to
3 take a photo of the master bedroom in which you are saying that
4 all these items were found in? Take a picture of that bedroom,
5 a snapshot of the entire bedroom. Don't you think that is
6 important?

7 A Depends. There were many pictures taken. Of the
8 entire bedroom?

9 Q Yeah?

10 A It depends.

11 Q Don't you think it's important for this jury to know
12 what that bedroom looked like, whether or not there was a bed,
13 air mattress, whether or not family pictures?

14 THE COURT: Describe it for us.

15 A You walk -- when you walk into the house the bedroom is
16 to the right. There's a bed to the right. There was bag on the
17 floor. It was carpet. The closet was to the left and in the
18 closet was all the clothing. I stood in the doorway and I could
19 see into the bedroom.

20 Q So what you're saying to me is there was a bed in the
21 master bedroom and not an air mattress?

22 A Well, it could have been an air mattress.

23 Q Oh, okay.

24 A I mean, it was place to sleep. It was her bedroom.

25 Q I understand. There's a difference?

1 A Yes, ma'am. Okay, yes, ma'am.

2 Q So had you taken a photo of that master bedroom we
3 would have seen an air mattress. We would have seen what was in
4 there wouldn't we?

5 A Yes, ma'am.

6 Q All right. But you didn't do that in this case?

7 A No, ma'am.

8 Q And upstairs as you testified earlier there were some
9 drugs found. I guess it was some pills found upstairs. You
10 didn't think it was important to take a picture of that bedroom
11 either, did you?

12 A I didn't go upstairs. I don't think I testified to
13 that. I didn't go upstairs.

14 Q Okay, but someone else did?

15 A Yes, I am sure they did, but I didn't go upstairs.

16 Q Okay, but you know there were drugs recovered upstairs?

17 A I do now.

18 Q You just found that out today?

19 A They were drugs recovered throughout the house. I
20 don't know what was recovered upstairs. I know the big drugs
21 were in bedroom.

22 Q Okay, and no one actually took a photo of that bedroom
23 in which the drugs were recovered upstairs, right

24 A I don't know.

25 Q You don't know?

1 A No, ma'am, I don't know.

2 Q Now Mr. Brown, there were some what you consider or --
3 there was some sandwich baggies found, right?

4 A There was about a dozen boxes of baggies. I don't know
5 if you call them sandwich baggies. They were heat sealing
6 baggies. Some of them could have been sandwich baggies in the
7 garage.

8 Q All right, and they were found in the garage?

9 A The ones I saw was in the garage. There was a black
10 bag with about a dozen boxes of baggies in it.

11 Q Would it surprise you if I told you one of your agents
12 or co-agents actually documented these sandwich bags were found
13 under the kitchen sink?

14 A No, ma'am, it wouldn't surprise me. I remember them
15 being in the garage. It come have been some more in the kitchen
16 sink. The answer is I don't know about the kitchen sink.

17 Q Under the kitchen sink.

18 A Under the kitchen sink.

19 Q About how many phones were recovered in the master
20 bedroom?

21 A I don't know.

22 Q Okay.

23 A Three maybe. I don't know.

24 Q About how many total electronics were found in the
25 master bedroom?

1 A I don't know. Ipads I'm not sure. I don't know.

2 Q Now, you mention that you knew that these clothes
3 belonged to Mr. Bisnauth, right?

4 A No, ma'am, they were clothes of his size. I don't know
5 that they were his clothes.

6 Q You're not certain, okay.

7 A No, ma'am.

8 Q Isn't it true that for example even in this case with
9 Mr. Bisnauth is charged with tracking meth, trafficking heroin,
10 possession with intent to distribute cocaine, that you can
11 actually have these clothes tested to see if any drugs show up
12 on this clothing. If I had drugs on my jacket you could
13 actually do a test on my jacket to see if meth or heroin comes
14 up positive on my jacket, right?

15 A Yes, ma'am, I guess you could.

16 Q And you didn't do that on any of the clothing found in
17 the closet, did you?

18 A They were drugs in the closet.

19 Q But on the clothing --

20 A No, ma'am.

21 Q It's called a drug detection test, isn't it? Drug
22 detection test?

23 A I'm not -- yes, ma'am. Sure. I don't know.

24 Q Now Mr. Brown, you have been I believe you indicated
25 about how many years you have total in this, 19?

1 A For what?

2 Q I'm sorry, drug enforcement unit years?

3 A Drug unit was formed in '98, 1998.

4 Q But now you actually dealt or executed your first
5 search warrant back in 1977, didn't you?

6 A Yes, ma'am. On Calendra Street in Rock Hill.

7 Q All right. You recall that don't you?

8 A Yes, ma'am..

9 Q And you know how important it is to take the proper
10 photographs, right?

11 A Yes, ma'am.

12 Q There was mention of -- let me strike that question.
13 Let's talk about when you walked into the house of
14 Sandpiper Drive and you had communications with Lashunda
15 McMoore, right?

16 A Yes.

17 Q Antonio Vasquez?

18 A Yes.

19 Q And Neco Tucker?

20 A Yes.

21 Q And you did not interview in detail Antonio Vasquez,
22 did you, even though he was in the house Sandpiper Drive,
23 right?

24 A No, ma'am, I did not.

25 Q And you did not interview Neco Tucker who was in the

1 car with Lashunda McMoore coming back to ?

2 A Not in detail, no, ma'am.

3 Q All right. But you went to this home and you drew a
4 conclusion that the drugs belonged to and were being stored --
5 or belonged to Shawn Bisnauth, right?

6 A Based on the investigation, yes, ma'am. Yes, ma'am.

7 Q Okay. Now, being in this, having executed your first
8 search warrant in 1977, 1998 the drug enforcement unit is
9 formed, you know its important or you have a right to have the
10 video tape, the actual scene, right?

11 A Yes, ma'am.

12 Q Because when you all use government agents or
13 confidential informants they actually have cameras on them,
14 don't they?

15 A Yes, ma'am.

16 Q So rightfully you could have a camera on you so that we
17 would know exactly what occurred and who was there when you
18 arrived at Sandpiper Drive, right?

19 A Yes, ma'am.

20 Q But there was no camera. You didn't think it was
21 important to have a camera, the same camera we know that you
22 have because you have the confidential informant, government
23 agent, to wear them. You didn't think it was important to have
24 that same camera in your possession so that this jury could see
25 the full picture?

1 A I did not have a camera on me, that's correct.

2 Q And you know that the drug enforcement unit having been
3 formed in 1998, pretty much try to follow proper procedure and
4 protocol, right?

5 A Yes, ma'am, we do.

6 Q And this incident happened in October of 2015?

7 A Yes, ma'am.

8 Q And the State of South Carolina passed a law that law
9 enforcement agents must wear body cameras in June of 2014,
10 right?

11 A There is some caveats to that. It's based on funding
12 and the drug unit has body cams. The agencies -- it's a long
13 drawn out answer. We didn't have body cams then. There was a
14 law but you have to read the whole law --

15 Q Okay.

16 A -- because the drug unit is a unit, not an agency. As
17 each agency developed their policies and gives their drug
18 agencies body cams they do wear them. So four of the agencies
19 where body cams now, four do not. And when the other four
20 develop their policies for body cameras all eight agencies will
21 wear body cams.

22 Q Right. So you're as a saying caveat to that -- so what
23 you're saying drug enforcement unit do not have body cameras?

24 A We do, four agencies, but not all eight agencies. But
25 not at the time we didn't have any.

1 Q Okay, so which agency was this, York County?

2 A In -- what agency was --

3 Q Sheriff's office. I guess you're saying it consists of
4 how many agencies?

5 A Eight agencies on the drug unit from York County.

6 Q Right, okay, so four of the agencies don't and four of
7 them do.

8 A At this time.

9 Q Okay, and how do you decide who wears a body cam and
10 who doesn't wear the body cam?

11 A I don't. Agency policy dictates that. Not the drug
12 unit.

13 Q Agency policy?

14 A Yes, ma'am.

15 Q Okay. But don't you think it's important that an
16 investigation to this extent that you would wear some type of
17 body camera or one of the six agents would wear a body cam so
18 that this jury would exactly know what occurred at and who
19 was there at that home when you got there?

20 A We do now. Back then we didn't have body cams. There
21 were no body cams at that time.

22 Q You do now as of what date?

23 A As each agency develops their protocol. Rock Hill has
24 had them for six months now.

25 Q You would agree that you are the longest running drug

1 unit task force in the State, right.

2 A I think so. I think that is correct.

3 Q You think so. You testified to that about a month ago?

4 A Yes, ma'am, I think so. I think that's correct.

5 Q And you are the head of the drug enforcement unit,
6 right? They call you Commander Brown isn't that right?

7 A Yes, ma'am.

8 Q And Marvin -- Mr. Brown, I'm sorry. You testified
9 earlier that you weren't quite sure about the monies but you
10 were the one who actually did the return from the search
11 warrant, right?

12 A No, ma'am, I didn't do the return. I'm not sure who did
13 the return. I'm a not sure.

14 Q But the return was made in the presence of M. Brown.
15 Are you M. Brown?

16 A The items were recovered in the my presence. I didn't
17 go before the judge when you said made the return. I thought
18 you meant made the return in front of the judge.

19 Q Okay, so when I say return, that all the things that
20 were collected including the money, was made in the presence of
21 M. Brown. Do you agree with that?

22 A I was present when everything was recovered, yes,
23 ma'am.

24 Q Including the monies, right?

25 A Yes, ma'am.

1 Q In fact you recovered some of it?

2 A I recovered the \$500. It says 550 on the return which
3 I brought up earlier.

4 Q Which you what, I'm sorry.

5 A I brought it up earlier, it says 550 on the return but
6 it's actually 500.

7 Q Do you remember on the evidence inventory sheet where
8 it says that there was a phone found in a Nike shoe box?

9 A I don't, but I will be glad to look at it.

10 Q I am going to show you. Let me know if you are
11 familiar with seeing that?

12 A No, this is a photograph we looked at earlier. I don't
13 remember this photograph. I don't deny it, but I don't remember
14 it.

15 Q You didn't do any DNA testing on the clothing?

16 THE COURT: Did you do any DNA testing.

17 THE WITNESS: Not on the clothing.

18 THE COURT: On anything.

19 THE WITNESS: On the Tupperware container.

20 Q Okay, but not on the clothing?

21 A Not on the clothes, no DNA.

22 MS. BURRIS: Beg the Court's indulgence.

23 Q Now -- one second here. As these items were returned
24 in your presence, they are actually placed in an evidence bag?

25 THE COURT: By return do you mean the paper work

1 --

2 MS. BURRIS: Yes.

3 THE COURT: -- that was filled out and given to
4 the Magistrate judge that issued the search warrant
5 showing what they seized?

6 MS. BURRIS: Yes.

7 A The return was completed at the office some time later
8 and these items was listed and they put I was present when it
9 was recovered but I wasn't standing there when the return was
10 filled out.

11 Q Okay, and you weren't standing there when the items
12 were placed in the items bag either, right?

13 A Most of it.

14 Q Most of it?

15 A At the scene they place items into evidence bag and I
16 watched, but I didn't place any items in the evidence bag
17 myself.

18 Q So you didn't actually fill out the evidence bags?

19 A I did not.

20 Q On the case file summary in which you indicate that you
21 were the case agent, you indicate that you recovered paperwork
22 with Lashunda McMoore's name on it, right?

23 A We recovered -- the drug unit, I don't think it said I
24 recovered. I would have to look at it.

25 Q Right.

1 A I didn't recover anything at the house that I remember,
2 I recovered -- I didn't recover anything.

3 Q But according to the case file summary, paperwork
4 belonged to Lashunda McMoore was recovered?

5 A Yes. Some paperwork from both were recovered; Shawn
6 and Miss McMoore, yes.

7 Q But if there is paperwork recovered belonging from
8 Lashunda McMoore it didn't end up on the evidence inventory
9 sheet, right? Let me rephrase it.

10 So if you recovered paperwork belonging go Lashunda McMoore
11 according to case file summary don't you think that's important
12 to put it on the evidence sheet?

13 A Yes, ma'am. Just what I said today your right I did
14 say paperwork from her, but looking over the evidence sheet we
15 didn't recover anything from her name on that I can remember.
16 That was a mistake on my part. We recovered items from him but
17 not from her. We saw her pocketbook. We did not recover items
18 from her, that's correct, that I remember.

19 Q And you didn't recover any paperwork which is contrary
20 to what you document on the report?

21 A That's correct.

22 THE COURT: You never really recover anything.

23 You never had it. You didn't have it and lose it and
24 recovered it. You just got it, right?

25 THE WITNESS: Yes, sir, I never had it.

1 Q Do you remember writing in the case file summary that
2 officers observed and had the clothing and personal belongings
3 photographed and the paperwork with both names in the bedroom
4 recovered?

5 A Yes, ma'am, I remember saying that.

6 Q But that's not true?

7 A No, ma'am. We didn't recover anything with her name on
8 it.

9 Q Okay, but you wrote also in the report that you located
10 a box or set of digital scales but there's is no photo that?

11 A Yes, ma'am, that's correct.

12 Q But no photos?

13 A Not that I know of.

14 Q Now the Mercedes Benz that you testified to earlier,
15 according to the report it was 2007. Right?

16 A Yes, ma'am, I believe so.

17 Q And there was a loan on it, right?

18 A I don't have any personal knowledge. I can tell you
19 what they told me.

20 Q Did they tell you there was loan on it?

21 A She said there was a loan it.

22 Q She said there was a loan it?

23 A Yes, ma'am.

24 Q All right. You testified earlier something about it was
25 taken, right?

1 A Yes, she told me they took her car away when Shawn was
2 arrested. I don't know who they were.

3 Q And she also told you that there was a balance or loan
4 ever it of 17,000, right?

5 A She did tell me that.

6 Q And she also told you that she didn't know anything
7 about the drugs in the house, right?

8 A That's correct.

9 Q But she was still charged with tracking meth,
10 trafficking heroin, PWID cocaine and possession of marijuana,
11 right?

12 A Yes, ma'am.

13 Q Just one more thing before I'm done. It's true that
14 there was marijuana found on Antonio Vasquez, right?

15 A Yes.

16 Q There was cocaine found in the Tupperware container in
17 the master bedroom floor?

18 A Yes -- no. There was cocaine found on the floor and in
19 Tupperware. The Tupperware was not on the floor.

20 Q Okay, and there was marijuana found in the master
21 bedroom on the floor?

22 A I don't remember that. I don't deny it.

23 Q There was a Samsung tablet that was actually recovered
24 in the master bedroom on the floor, right?

25 A I don't remember that.

1 Q There was a mini iPad recovered on the master bedroom

2 --

3 A There was some electronics recovered. I don't remember
4 which one or what they were were.

5 Q Do you remember that there were cell phones recovered
6 in the purse of the master bedroom closet, right?

7 A Yes, ma'am. There's picture.

8 Q There was a flip phone recovered in a shoe box
9 recovered in the master bedroom closet; yes or no?

10 A I don't remember.

11 Q And I believe you testified earlier there was some
12 baggies with residue recovered, right?

13 A In the garage.

14 Q Right, but there were no fingerprints. It wasn't
15 fingerprinted?

16 A That's correct.

17 Q And there was some marijuana recovered out of some
18 pants in a watch pocket, right?

19 A I don't remember the marijuana.

20 Q You don't remember the marijuana being recovered out of
21 the closet in someone's watch pocket?

22 A No, ma'am.

23 Q But you have had the opportunity to read over the
24 evidence inventory sheet and the supplemental evidence inventory
25 sheet, right?

1 A Yes, ma'am, completed by Investigator Burkhart. Yes,
2 ma'am. Yes, I read over it.

3 Q And you reviewed this file at least two or three times,
4 right?

5 A Yes, ma'am.

6 Q And you were there because you were a part of executing
7 the search warrant on October 15, 2015?

8 A Yes, ma'am I typed up the search warrants. Yes, ma'am.

9 Q You typed up everything?

10 A Yes, ma'am.

11 Q And you typed up the case file summary?

12 A I did.

13 Q And you typed up some of the other documents in the
14 file?

15 A You have to -- I didn't do some of it, but I did some
16 of it.

17 Q All right.

18 MS. BURRIS: Thank you, Mr. Brown. I have no
19 questions.

20 THE COURT: Anything on redirect?

21 MS. HAMILTON: Yes, Your Honor. I will try to be
22 as brief as possible.

23 REDIRECT EXAMINATION

24 BY MS. HAMILTON:

25 Q All right. A lot ground to cover but I am going to

1 start with something that was recently said.

2 THE COURT: Anybody on the jury need a break at
3 this point, if so raise your hand.

4 (WHEREUPON, no one raises there hand.)

5 THE COURT: Go ahead.

6 Q You said they took a car away from Lashunda, who is
7 they?

8 A I don't know.

9 Q It wasn't you all?

10 A She called me and asked if I seized the car. She said
11 they came and got the the car after Shawn was arrested. I don't
12 know who they were. To this day I don't know who came and took
13 the car.

14 Q Someone just took the car that they were making
15 payments on?

16 A Yes, ma'am.

17 Q And that is after her income source, Shawn Bisnauth,
18 was arrested, correct?

19 A Yes, ma'am.

20 Q Okay. I'm going to start from the beginning. As to
21 the home, now the defendant did verbally tell you that his
22 address was Sandpiper Drive on October 15, 2015, correct?

23 A Yes, ma'am.

24 Q And that he lived there?

25 A Yes, ma'am.

1 Q Going back to surveillance on the residence, the
2 defense did ask you about surveillance on the home and how you
3 didn't log it. Do you normally log hour for hour, day for day
4 in a case summary about surveillance?

5 A No, ma'am.

6 Q Do you summarize it?

7 A I try too.

8 Q And it wouldn't be practical to do that on summary,
9 correct?

10 A No, ma'am, I work long hours every day.

11 Q And she brought up the ticket for Vasquez and nobody
12 logging his correct address. Did you write any kind of ticket
13 on Mr. Vasquez?

14 A I did not.

15 Q Okay, so someone else wrote that ticket?

16 A Yes, ma'am.

17 Q Okay. And you did state that on a waiver of rights
18 form that Antonio Vasquez did write down his address, correct?

19 A Yes, ma'am.

20 Q Would it refresh your recollection if I handed you that
21 form?

22 A Yes, ma'am.

23 Q As to the address?

24 A Yes, ma'am.

25 (WHEREUPON, a document was shown to the witness.)

1 Q Would you please take a moment to look at that form.
2 And than form that you have in your hand that's included in the
3 case file summary, correct?

4 A Yes, ma'am.

5 Q Okay. And what -- does that refresh your recollection
6 as to his correct address?

7 A Yes, ma'am.

8 Q Okay, and what is that address?

9 A For Vasquez, 120 Davis Street, Danville, Virginia,
10 24541 or 29541.

11 Q And is that in his handwriting?

12 A I don't know.

13 Q What you believe to be his handwriting?

14 A He signed it. His name is handwritten printed and he
15 signed underneath it. I saw him writing on the form. I can't
16 say that -- I didn't see him actually write out every detail but
17 he did sign the form and it's showing an address, but I don't
18 know that is his handwriting.

19 Q And before that, Mr. Tucker?

20 A He also signed the form.

21 Q And what did he list as his address?

22 A 521 Forth Street, Danville, Virginia, same zip code.

23 Q So you did actually have the addresses of these men in
24 your case file?

25 A Yes, ma'am.

1 Q And are you aware that Miss McMoore actually did not
2 cooperate for the State?

3 A Yes, ma'am.

4 Q She did not agree to testify for the State, correct?

5 A That's correct, she did not.

6 Q And I want to refresh your recollection because the
7 defense is asking about the civil matter, the consent of
8 forfeiture?

9 A Yes, ma'am.

10 Q That is a civil matter, not a criminal matter, correct?

11 A Yes, distinct and separate cases.

12 Q Okay. But you did fill out a consent order in this
13 case, but you said you could not remember. I just want to
14 refresh your recollection.

15 A I did on her. I don't remember on him.

16 Q I will refresh your recollection with this form.

17 (Handed)

18 A Okay.

19 MS. BURRIS: I have no objection Your Honor.

20 Q Refresh your are recollection on this. Could you take
21 a moment to look at consent form.

22 Now this is a forfeiture. Under the statute why do you seize
23 this money?

24 A He signed a consent order of forfeiture turning the
25 money over.

1 Q And why under the statute is this money turned over?

2 A As drug proceeds.

3 Q And he signed that, correct?

4 A Yes, ma'am.

5 Q Stating that this was drug proceeds, correct?

6 MS. BURRIS: I'm going to object to that.

7 THE COURT: I'm going to allow it.

8 A Yes, ma'am.

9 Q Okay, and is his name on that form?

10 A It is. I typed it on several times and he signed the
11 form.

12 Q And what was the date on that form?

13 A I'm looking for the date of the signature. The one
14 that has my name on it is October 15, 2015, that day.

15 Q And did you witness him sign this form?

16 A Yes. Because I signed it also.

17 MS. HAMILTON: Your Honor, the State would ask
18 this to be admitted into evidence as State's Exhibit
19 Number 31.

20 THE COURT: Number 31?

21 MS. HAMILTON: Yes.

22 THE COURT: How did we get up to 31?

23 MS. HAMILTON: We were not anticipating to admit
24 this until it was spoken about.

25 THE COURT: Well, you had some others marked.

1 MS. HAMILTON: Yes, Your Honor we did.

2 THE COURT: All right, any objection?

3 MS. BURRIS: No, sir.

4 THE COURT: All right, without objection.

5 MS. HAMILTON: Thank you, Your Honor.

6 (Plaintiff's Exhibit 31, consent forfeiture form,
7 received in evidence as of this date.)

8 Q Okay, and McMoore stated that she did live at this
9 address, correct?

10 A She did.

11 Q So you expected to find some of her items at this
12 residence?

13 A I did.

14 Q In addition to the defendant's items?

15 A Yes, ma'am.

16 Q And there's a photo that the defense -- I will try and
17 verify what number this was. I think it's Defendants Exhibit
18 Number 1. Can you take a look at that photo. It's the air
19 mattress box?

20 A Defendant's Exhibit number 1.

21 Q That photo?

22 A Yes, ma'am.

23 Q There is a box at the top of that photo. Do you see
24 that box?

25 A At the top, yes, ma'am.

1 Q And does that look familiar to you? Does that look
2 like a box for digital scales?

3 A Yes, ma'am it could be, but I can't say for sure.

4 Q Okay. And was there a designated evidence tech on
5 scene that took photos of this home and recovered all of the
6 evidence?

7 A Yes, ma'am.

8 Q And what is his name?

9 A Investigator Danny Burkhardt.

10 Q So that was not your job to actually recover all this
11 evidence?

12 A No, ma'am, I did not recover the evidence.

13 Q And that's why some times you are not familiar with the
14 exact items that were taken into evidence because you did not
15 recover them all?

16 A That is correct.

17 Q And the last question, as to body cams instituted. Why
18 were they not instituted before on this date, was it a funding
19 issue or was it just --

20 A Yeah, it's a money issue, agency by agency and the
21 agencies that don't have money they budget a certain amount of
22 money. The government agreed to help them. It was a money
23 issue. Everything is a money issue.

24 Q But you have body cams now?

25 A Half of the unit has body cams now.

1 Q All right. Thank you.

2 THE COURT: Thank you, very much. You can return
3 to your place in the courtroom. We will take a short
4 break. I need a break. So we will take about a five
5 to ten minute break. I hope you enjoy yourself.
6 Relax. Get a little coffee, whatever. Five to ten
7 minute break.

8 (WHEREUPON, there is a brief recess.)

9 THE COURT: Bring the jury in.

10 (WHEREUPON, the jury enters the courtroom.)

11 THE COURT: All right, Mr. Bisnauth is present
12 along with his attorney. All right, call your next
13 witness.

14 MS. BURRIS: Your Honor, actually have some
15 redirect.

16 THE COURT: No, no, no, it's direct, cross.

17 MS. BURRIS: Recross.

18 THE COURT: You don't get a recross. Sit down.
19 Next witness.

20 MS. HAMILTON: We ask that Mr. Brown, or Commander
21 Brown be excused please.

22 THE COURT: Come on down.

23 MS. HAMILTON: The State calls Officer Danny
24 Burkhart.

25 DANNY BURKHART, called as a witness, having been

1 duly sworn by the clerk, was examined and testified as
2 follows:

3 MS. BURRIS: Your Honor, may we approach just
4 briefly.

5 THE COURT: No, if it's worth saying it's worth
6 saying on the record. Do you want to say something?

7 MS. BURRIS: It would be --

8 THE COURT: Members of the jury panel you need to
9 go to the jury room please.

10 (WHEREUPON, the jurors leave the courtroom.)

11 THE COURT: All right, the jurors are out. The
12 door is closed. Yes, ma'am.

13 MS. BURRIS: Your Honor, I believe that we are
14 entitled to ask I believe it's a different document
15 that was introduced into evidence, the consent order
16 of forfeiture that was asked by Miss Hamilton of Mr.
17 Brown. I believe that we are entitled to further ask
18 him about the consent order of forfeiture which is the
19 document that was newly introduced by the solicitor.

20 THE COURT: Go get him, back. We will give her a
21 chance to ask about that document. Get him back.

22 MS. BURRIS: Thank you, Your Honor. Come on back
23 up. Bring the jury in.

24 (WHEREUPON, the jury enters the courtroom.)

25 THE COURT: All right. So you want to ask him

1 about the document that he testified to on redirect is
2 that right?

3 MS. BURRIS: Yes, sir. Thank you, Your Honor.

4 Immaterial ago head.

5 RECROSS EXAMINATION

6 BY MS. BURRIS:

7 Q Mr. Brown, prior to Miss Hamilton asking you about the
8 forfeiture paperwork you testified that you did do seizure
9 paperwork on Lashunda McMoore but not on Shawn Bisnuaght, didn't
10 you?

11 A I think I said I didn't remember doing it on him.

12 Q Okay. So now you do remember that you did a consent
13 order of forfeiture, right?

14 A Yes, ma'am. It's there. I did it. It's in my hand.
15 I signed it.

16 Q Okay, and what Miss Hamilton was asking, she asked you
17 about body cam. You said it was money thing, right?

18 THE COURT: I didn't hear what you asked him.

19 Q She asked you about body cams and you said it's just
20 according to the monies, right?

21 A Thousands of dollars, yes.

22 Q That they cost?

23 A Yes, ma'am.

24 Q In order to have the body cams on your agency or DEU
25 agency?

1 A Yes, ma'am.

2 Q Okay. And according to this consent order of
3 forfeiture which is actually part of the record and marked as
4 State's Exhibit 31, isn't it true that when you seize anyone's
5 money or property the first one thousand dollars goes to the the
6 seizing agency; the York County Multi-Jurisdictional Drug
7 Enforcement Unit, right?

8 A No, ma'am, we don't to keep any money.

9 Q Okay.

10 A It goes to -- go ahead.

11 Q Let's read this.

12 A Okay.

13 Q It's been admitted into evidence.

14 A Yes, ma'am.

15 Q And if you will read where it says "It is therefore
16 ordered, judge and decreed" at the very bottom, number 1?

17 A Yes, ma'am.

18 Q And what does it say?

19 A It says the first one thousand dollars seizing agency
20 York County drug enforcement unit, but we don't -- it goes to
21 sheriff's department. We're a unit. We're not an agency so
22 therefore we can't. General Assembly or Supreme Court, somebody
23 said we can't take it as a unit. The agency takes the money.
24 So it goes to the sheriff's department, but we are part of the
25 the sheriff's department and all the other agencies.

1 Q So what you are saying is the money is seized by the
2 York County Multi-Jurisdictional Drug Enforcement Unit, right?

3 A Yes, ma'am.

4 Q And the sentence that says the first one thousand
5 dollars will go to the the seizing agency, you being the seizing
6 agency you're saying you don't get the first one thousand
7 dollars?

8 A It goes into an account managed by the sheriff's
9 department, yes, ma'am. We seize the money. We put it into
10 account, but we don't have any authority over the money.

11 Q Okay. And then if its I assume more than one thousand
12 dollars according to this forfeiture paperwork, the remainder of
13 seizure shall be split 20 percent to the solicitor's office of
14 the 16th Judicial Circuit in which York County Multi-
15 Jurisdictional Drug Enforcement you specifically you work for
16 the solicitor's office, right?

17 A Yes, ma'am, that's state law. That's throughout the
18 entire state.

19 Q And then five percent goes to the South Carolina
20 general services, right?

21 A Yes, ma'am, state law.

22 Q And then there's an additional seventy-five percent
23 that goes to the seizing agency and includes the first one
24 thousand dollars that goes to the seizing agency, right?

25 A Yes, ma'am.

1 Q Okay.

2 A But we're not an agency. We're a unit so we don't get
3 it.

4 Q Okay, and it says that this money is going to be
5 dispersed per the York County Multi-Jurisdictional Drug
6 Enforcement Unit memoranda of agreement, right?

7 A Yes, ma'am, that is correct.

8 Q And you are the Commander of the York County
9 Multi-Jurisdictional Drug Enforcement Unit, right?

10 A Yes, ma'am.

11 Q Now you said that Mr. Bisnauth actually signed the
12 money over basically indicating that it was coming from drug
13 proceeds, right?

14 A Yes, ma'am.

15 Q And there is not anything on here indicating that I am
16 signing, or Mr. Bisnauth, is signing his money over because it's
17 coming from drug proceeds, right?

18 A I'm looking at that now. This is a seizure order for
19 forfeiture for drug enforcement under the state law. I'm
20 looking to see if the exact wording is on here. It says the
21 defendant's property was seized, described and spells out the
22 state law and I'm looking to see if it actually spells it out in
23 layman's terms.

24 Yes, ma'am, it spells out the state law.

25 Q And you explained the state law to him?

1 A I probably did not spell out the state law to him. I
2 did tell him that we seized drug proceeds. That's the only way
3 we can do the forfeiture.

4 Q All right, so if he wouldn't have given his money over
5 then what you also told him then we will just sue you for it,
6 right?

7 A Not in those words.

8 Q They can file -- you can file a civil action to get the
9 money?

10 A Yes, the solicitor's office they can make a
11 determination if they want to file a lawsuit and he has and
12 opportunity to go before a judge to get his money back or he can
13 just consent -- do a consent order and give up the money. He
14 choose to do a consent order.

15 Q And you explained all that to him?

16 A Yes, ma'am, I did explain it to him or I explain it to
17 everyone.

18 Q There is no where on here that says by agreeing to give
19 up this money you are agreeing that this money is part of the
20 drug proceeds; yes or no?

21 A No, not spelled out that way.

22 Q Not spelled out that way. It is not on here period,
23 right?

24 A Yes, ma'am.

25 THE COURT: When was that signed?

1 THE WITNESS: He signed it the day of the arrest.
2 The judge signed it a few days later.

3 THE COURT: Okay.

4 MS. BURRIS: Thank you Mr. Brown.

5 THE COURT: Call your next witness.

6 (WHEREUPON, the witness was excused.)

7 MS. HAMILTON: The State calls officer Danny
8 Burkhart.

9 Your Honor, can Commander Brown be excused?

10 THE COURT: As far as I'm concerned.

11 MS. HAMILTON: Okay. Thank you.

12 May it please the Court, Your Honor.

13 THE COURT: Go ahead. You're still under oath?

14 THE WITNESS: Yes, sir.

15 DIRECT EXAMINATION

16 BY MS. HAMILTON:

17 Q Could you please state your full name for the Court.

18 A Yes, it's Daniel Ryan Burkhart.

19 Q And what your is occupation?

20 A I'm a police officer.

21 Q How long have you been employed with the York County
22 Drug Enforcement Unit?

23 A I have been on the drug unit for about six years now.
24 I am employed by Rock Hill Police Department. I'm assigned to
25 York County Drug Unit for the last six years.

1 Q And what type of work do you do in your position?

2 A Drug investigation primarily.

3 Q And were you employed in that present capacity with
4 with the York County Drug Enforcement Unit on October 15, 2015?

5 A Yes, ma'am, I was.

6 Q I want to draw your attention to around 11 o'clock that
7 morning.

8 A Okay.

9 Q What were you doing that morning around 11 o'clock on
10 October 15, 2015?

11 A I was at Sandpiper Drive to execute a search
12 warrant at the residence.

13 Q And is that residence within York County?

14 A It is.

15 Q Please describe to me how you came in to this
16 investigation, at that time?

17 A We had been conducting surveillance on the residence.
18 When Lashunda McMoore arrived I was one of the officers that
19 came to the house to assist in executing the search warrant. I
20 was also the evidence technician for the search warrant. That
21 meant I collected all the evidence that was at the house that
22 day.

23 Q So you were designated evidence tech on scene?

24 A Yes, ma'am.

25 Q What did you proceed to do once inside that residence?

1 A After the search warrant was read and Miranda was read
2 I was able to determine which bedroom was Shawn and Lashandra's
3 and we started to search that bedroom.

4 Q Okay. Then what did you do next?

5 A Once I started searching the residence there was a
6 shopping bag on the bedroom floor. Inside that shopping bag was
7 a little bit of cocaine. From there we continued to search the
8 bedroom.

9 Q And did you locate anything else illegal in that
10 bedroom, the defendant's bedroom?

11 A Yes, we did. In the master bedroom closet there was a
12 small Tupperware container. Inside that Tupperware container
13 was roughly a ounce of meth, a half ounce of heroin, a little
14 more cocaine and a small amount of marijuana also in the
15 bedroom.

16 Q And that marijuana was not in the closet?

17 A No, I believe it was the bedroom floor.

18 Q Did you find anything else within that bedroom, the
19 defendant's bedroom that was important or related to your drug
20 investigation?

21 A Yes, ma'am, there were a number of cell phones and
22 other tablets that we also collected and packaging materials.

23 Q Do you remember where you located the packaging
24 materials?

25 A So, there were two main places for the packing --

1 packaging materials. One was under the kitchen sink in a
2 cabinet. The other was out in the garage.

3 Q And the heat sealing machines where were those located?

4 A Those were in the garage as well.

5 Q And the cell phones that you found, where were those
6 located?

7 A The majority of those were in the master closet.

8 Q And it was multiple cell phones?

9 A Yes, there was. Six in total I believe.

10 THE COURT: I'm sorry.

11 THE COURT: Six in total I believe Your Honor.

12 Q Did you find anything else tying Mr. Bisnauth to the
13 bedroom where drugs were found?

14 A Yes, ma'am, I did. During my search of the bedroom I
15 located a picture of Shawn Bisnauth in the bedroom, credit cards
16 of his, medicine of his that was also in there and some mail
17 correspondence that had his name on it.

18 Q Now, after you found all of this evidence, did you take
19 pictures of that evidence?

20 A Yes, I did.

21 Q Now, I am going to hand you what has been marked and I
22 want to make sure that I get the numbers correct. State's
23 Exhibit Number Three through 18. Now this is a just for
24 identification purposes.

25 MS. BURRIS: No objection, Your Honor.

1 THE COURT: Without objection in evidence.

2 (State's Exhibit 3-18, photographs, received in
3 evidence as of this date.)

4 MS. BURRIS: Two of them are already in evidence.

5 Q Can you just take a moment to review all of these
6 photos?

7 A I will.

8 MS. HAMILTON: Your Honor, the State requests to
9 publish these exhibits to the jury.

10 THE COURT: All right. You you can do that.

11 A I am familiar with them.

12 Q Okay. Now we will go through each photo.

13 A Okay.

14 Q I will try to be as brief as possible. But just kind
15 of want you to tell us, and specifically the jury, what we are
16 are looking at?

17 A Absolutely.

18 Q Okay. So this is exhibit number three. Could you
19 please describe to the jury what this is a photo of?

20 A Absolutely. So this is a picture that was taken inside
21 the master bedroom's closet in Shawn's bedroom. When you open
22 the closet there's clothes hanging and when you push the clothes
23 to the right this blue bin where you would store clothes or
24 items in was sitting there. On top of that blue bin is this
25 yellow plastic Tupperware container.

1 THE COURT: You said this picture was taken from
2 inside the closet.

3 THE WITNESS: Taken of. Yes, Your Honor. I'm
4 sorry.

5 Q And this is a Tupperware container where the drugs were
6 found, correct?

7 A Yes.

8 Q So we are going to go to exhibit number four.

9 A This say picture of the drugs that were inside. As I
10 said earlier roughly a ounce of methamphetamine, a half ounce of
11 heroin and little bit of cocaine and some packaging materials
12 there as well.

13 Q And these bags right here. Do you see these bags right
14 here?

15 A Yes, ma'am.

16 Q That's what you would consider packaging material?

17 A Yes, ma'am. And specifically those type of packaging
18 materials are used for heroin.

19 Q Okay, and did you find any of those bags elsewhere in
20 the home?

21 A I did. That is what was under the kitchen sink. A
22 large quantity of those.

23 Q Those specific bags?

24 A Yes.

25 Q We'll go exhibit number five -- I'm sorry six.

1 A This is a photo of the white shopping bag that was
2 sitting on the bedroom floor inside there. I know it's a little
3 difficult to see but that's where the bag of cocaine is inside
4 this shopping bag.

5 Q Is this it where I am circling?

6 A Yes, it is.

7 Q Exhibit number seven?

8 A That is the cocaine that was inside that shopping bag.

9 Q Exhibit number eight, what is this photo of.

10 A This is a picture again of the medicine that was
11 located inside the master bedroom bathroom.

12 Q And those medicine bottles, whose name were on those
13 medicine bottles?

14 A Shawn Bisnauth.

15 Q And are those the -- are those the bottles that
16 Commander Brown testified earlier that he took photos of?

17 A There are, yes.

18 Q More close up?

19 A Correct. I believe this is the way I found them and
20 then Commander Brown came in and turned them around so you could
21 see them a little better.

22 Q And that is your job as evidence tech to take photos of
23 evidence as you found it --

24 A That's correct.

25 Q --before it was bagged up?

1 A That's correct.

2 Q State's Exhibit Number nine and ten. Well, this is
3 specifically number nine.

4 A This is heat sealer. It is also called a food saver.
5 It is vacuum storage.

6 Q And in your years of experience doing drug
7 investigation what are these used for?

8 A Primarily drug traffickers and larger drug dealers will
9 use these type of machines for transporting drugs because the
10 idea is you are vacuum sealing because it's harder for an
11 officer or drug canine to be able to detect or smell the drugs
12 that's inside the packaging.

13 Q They're also used for food though?

14 A They are. That's the primary purpose.

15 Q But you assume so since there were drugs found at this
16 time?

17 A Correct. Correct.

18 Q This is number ten we are publishing, what's this?

19 A Another type of heat sealer, vacuum seller.

20 Q And both of these, where were these located?

21 A These were in the garage.

22 Q State's Exhibit Number 11 next. What is this?

23 A So if you can imagine this picture is turned sideways
24 this is underneath the sink. If it were to be rotated
25 counterclockwise that would be the long part, that is the bottom

1 cabinet portion underneath the sink. And primary what I am
2 taking a picture of is this black plastic bag that's under the
3 sink. It's like a small garbage bag.

4 Q Okay. And this is number 11 -- I mean number 12. I'm
5 sorry.

6 A So once I opened up the bag this is what I found and
7 this is the same type of small wax paper packaging materials and
8 rubber bands that are used to package and distribute heroin.

9 Q And that is the kind of bag that you actually did find
10 within that Tupperware?

11 A Correct.

12 Q State's Exhibit Number 13. What is this a photo of.

13 A Plastic bags with a little bit of cocaine residue
14 inside of them.

15 Q Okay. Exhibit must be better 14?

16 A More packaging materials. Ziplock bags that we found
17 in the garage.

18 Q Okay. And do any of these match the bags that you
19 found the drugs in the Tupperware container?

20 A Yes.

21 Q State's 15, what is this?

22 A So this is a picture you can kind of see the kitchen
23 sink there to the left. It's a countertop that was above the
24 kitchen sink. On top of that was this book which is actually a
25 hidden compartment.

1 Q Number 16?

2 A When you opened up the book there were couple of actual
3 pages but once you got in to the middle of the book this is
4 where I found the hidden compartment. That black area there's
5 just a plastic void that's made inside the book where you can
6 hide an item that something that would be able to fit inside
7 there.

8 Q And why did you think this was relevant to take a photo
9 of this?

10 A In my experience drug traffickers, drug dealers would
11 use items like this to try and conceal contraband inside their
12 home.

13 Q This is State's Exhibit Number 17.

14 A This is a picture, shopping card and credit card all
15 found inside the room that Shawn Bisnauth -- the main picture
16 there is gentleman on the right that is his shopping card with
17 his photo on it and a Wells Fargo bank card with his name on it.

18 Q And this is a shopping card with his photo on it?

19 A Yes, ma'am.

20 Q And in your opinion that is the defendant in both of
21 those photos?

22 A Yes.

23 Q State's Exhibit Number 18. What was this? I know we
24 have already gone through this but I just want to put it up.

25 A Yes, this is the mail correspondence we found inside

1 the bedroom with Shawn's name on it.

2 Q Okay. Let me hand you for identification purposes
3 State's Exhibit Number 19?

4 A Yes, ma'am.

5 Q Could you please take a look at State's or what has
6 been marked as State's Exhibit Number 19.

7 A Yes, ma'am. This is the yellow plastic container that
8 contained the drugs that was found inside the master bedroom
9 closet.

10 Q And can you open that?

11 A Yes, ma'am.

12 Q Take a look at it and verify? And how do you know it's
13 that by looking at it?

14 A It has the case number in my handwriting, my name on it
15 and then the incident report number on it as well that I wrote.

16 Q And just so the jury is aware, prior to you touching
17 this has been DNA tested and fingerprinted tested?

18 A Yes and me touching this right now is the first time I
19 would touch this without a glove on.

20 Q Okay. How did this item first come into your
21 possession?

22 A When I located inside the master bedroom closet.

23 Q And you obtained that on what date?

24 A That was October 15, 2015.

25 Q And is this substantially the same condition it was

1 that we you seized it that day?

2 A It is. It has got a couple of stickers on it that were
3 not there from before. I assuming when the fingerprinting and
4 DNA was done.

5 MS. HAMILTON: Your Honor, the State would offer
6 exhibit number 19 into evidence.

7 THE COURT: Any objection?

8 MS. BURRIS: No objection, Your Honor.

9 THE COURT: All right, thank you.

10 (State's Exhibit 19, Photo, received in evidence
11 as of this date.)

12 Q So you just stated this is the container you found the
13 drugs in. You stated you have about been in law enforcement for
14 for six years, correct?

15 A Total of 11. I've been doing drug investigations for
16 six years.

17 Q So you have experience in investing drug crimes for six
18 years?

19 A Yes, I do.

20 Q And as you opened this container that day what kind of
21 drugs did you believe to be in that container?

22 A Heroin, methamphetamine, and cocaine.

23 Q And that's based on your years of experience in seeing
24 those drugs?

25 A It is, yes, ma'am.

1 Q I'm going to hand you what's been marked as State's
2 Exhibit -- you can stick that back in the bag.

3 A Okay.

4 Q I am going to hand you two other exhibits. States
5 exhibit -- what has been marked as State's Exhibit 20 and 21.
6 Actually 20 through 22.

7 MS. BURRIS: No objection Your Honor.

8 THE COURT: Thank you.

9 MS. BURRIS: Your welcome.

10 Q Have you had contact with these before?

11 A Yes, I have.

12 Q How do you recognize each exhibit?

13 A So these are the drugs that were found inside the
14 yellow plastic container. I bagged them into evidence. This is
15 my handwriting, case number and name on each bag.

16 Q Now, I will start with -- are these envelopes that you
17 secured the drugs in the morning of October 15, 2015?

18 A They are. It has my initials and date on the top.

19 Q On each one?

20 A On each one, yes.

21 Q I will start with exhibit number 20?

22 A Okay.

23 Q Let me know when you have it?

24 A Do you recognize the contents of this envelope
25 specifically.

1 A I am sorry, I'm just trying to find the exhibit number.

2 Q If you flip it over it's on a white sticker.

3 A Yes, I have it. This is the cocaine that was inside.

4 Q And do you recognize -- I know it's in an evidence bag
5 now but do you recognize the bag within that evidence bag?

6 A I do, and this is actually the cocaine that was found
7 inside the shopping bag on the floor, roughly what we call and
8 eight ball, three and a half grams. A rough estimate.

9 Q And is that user level in your experience or is that
10 dealer level??

11 A That would be dealer level. The law mandates and says
12 that anything over a gram can be considered to be a dealer
13 amount of cocaine. So this is roughly three and a half times a
14 dealer amount of cocaine.

15 Q And in your experience what do you normally see on a
16 user amount?

17 A Anywhere from point one to half a gram, maybe somewhere
18 in there.

19 Q And this is the cocaine that you found in the bedroom
20 of the defendant?

21 A It is, yes. This is what was in the shopping bag, yes.

22 Q Okay. We are going to go on to exhibit number 21?

23 A Okay.

24 Q Do you recognize the contents of this envelope?

25 A I do. This is the heroin that was inside of the yellow

1 plastic container.

2 Q And this is -- where did you locate this item?

3 A Inside the plastic container which was located in Shawn
4 Bisnauth's bedroom closet.

5 Q And do you remember how much you believed that heroin
6 to be?

7 A It's roughly a half ounce which is 14 grams. Just over
8 14 grams I believe.

9 Q And I would like you to look at the last one, exhibit
10 22. Do you recognize the contents of this envelope?

11 A I do. This is the methamphetamine that we found inside
12 the yellow plastic container along with some of the other
13 packaging materials.

14 Q Okay. And where did you locate this?

15 A In the yellow container which was found in the closet.

16 Q And how much did you believe this methamphetamine to be
17 amount weight wise?

18 A It was right at an ounce or just under which is 28
19 grams.

20 Q Okay. Now, I know you have some of these weights in
21 the incident report and some of them changed on the drug report?

22 A Yes.

23 Q Why does that happen?

24 A So over time certain drugs the way they're manufactured
25 come to be they have liquid in them. That liquid will dry up

1 over time. This I believe will be just over two years. So over
2 the past two years all of these drugs have sat in evidence and
3 dried up a little bit so the weights are a little bit smaller.

4 Q From the time you seize them from the time they are
5 tested could be a year's time?

6 A Correct.

7 Q You find that as standard?

8 A Yes, ma'am correct.

9 Q Okay. Now you stated that once you found the drugs you
10 bagged them up into that evidence envelope?

11 A I did.

12 Q Now, is that sealed and secured?

13 A It is, yes.

14 Q And after you sealed and secured those drugs in the
15 evidence envelope what did you proceed to do with them?

16 A They went back to the Rock Hill Police Department with
17 me where I finished the categorization of the evidence and at
18 that point they were placed into a secured locker which is the
19 Rock Hill Police Department.

20 Q And that is secured location?

21 A It is.

22 Q Were the drugs continuously under your custody and
23 control while you had them prior to bagging them up and placing
24 them into that secured location at Rock Hill Police Department?

25 A Yes, ma'am.

1 Q And what were the conditions of that evidence bags
2 specifically exhibit 20 through 22 of the drugs when they left
3 your possession?

4 A Essentially the same as they are are in now. They were
5 in good condition.

6 Q And not tampered with?

7 A Correct.

8 Q Now, those specific drugs -- now there were, you said,
9 there was some marijuana in the bedroom?

10 A I am trying to remember. I believe there was a small
11 amount of marijuana that was photographed maybe on the bedroom
12 floor -- or it was not photographed, but it was on the bedroom
13 floor.

14 Q Oaky, and the defendant wasn't charged with that
15 marijuana correct?

16 A No.

17 Q So that's why we are not bringing any of that in at
18 this time?

19 A Correct.

20 Q I am going to hand you what has been marked as State's
21 Exhibit Number 23 through 26.

22 MS. HAMILTON: Beg the Court's indulgence, Your
23 Honor.

24 MS. BURRIS: No objection, Your Honor.

25 THE COURT: Thank you.

1 Q Okay, I am handing you what has been marked for
2 identification purposes?

3 A Okay.

4 Q Once again, it is State's exhibit 23 through 25, not
5 26?

6 A Okay.

7 THE COURT: Twenty-three through 25, did you say?

8 MS. HAMILTON: Yes, Your Honor.

9 THE COURT: Okay.

10 Q Do you recognize these items, and you can you open them
11 and I would like for to look through them.

12 A Would you like me to open this one as well?

13 (Indicating)

14 Q No, do not open that. Do you recognize that.

15 A I do, yes. So this is the plastic bags and when you
16 look closely you can see cocaine residue inside the plastic bags
17 that we found in the garage.

18 Q And what exhibit is that? What number?

19 A That is exhibit number 25.

20 Q And how do you recognize that as the one that you
21 actually seized?

22 A It has my initial and date at the top the bag along
23 with the case number with my name.

24 Q And you did not test these bags?

25 A No, there was no need to.

1 Q Now exhibit number 23. Do you recognize this item?

2 A Yes.

3 Q Can you open that?

4 A This is paperwork from the master bedroom that we
5 looked at.

6 Q How do you know that is the item that you seized?

7 A Again, it has my initials and date, and my handwriting
8 and the case number on there.

9 Q Okay. Taking a look at that have we seen those items?

10 A Yes, these are the items that we just shown on the
11 screen; bank card with Shawn Bisnauth's name on it, the shopping
12 card, the BJ's, with his photograph, the photograph that we
13 showed, and the two pieces of mail correspondence with Shawn
14 Bisnauth's name on.

15 Q And you recognize those items to be the items that you
16 seized from the defendant's bedroom?

17 A Yes.

18 Q Are they substantially in the same condition that they
19 were when you seized them?

20 A Yes, they are.

21 Q And the last item, number 25.

22 A Put these back in here so I don't get confused. This
23 is the packaging materials that were located under the kitchen
24 sink and again, my handwriting, case number, name and initials
25 on the bag. And this is the plastic bag with the heroin,

1 packaging materials.

2 I don't know if the jurors ever heard the term for heroin
3 bindle. That's exactly what these are. And it's hard to count
4 but there is probably well over one thousand of these and rubber
5 bands inside this bag.

6 Q And this is in substantially the same condition you saw
7 it on the day of October 15, 2015 at the defendant's residence?

8 A It is.

9 MS. HAMILTON: Your Honor, the State would offer
10 exhibit number's 23 through 25 for admission into
11 evidence.

12 THE COURT: They are in evidence without
13 objection.

14 MS. HAMILTON: Thank you, Your Honor.

15 (State's Exhibits 23-25 received in evidence as
16 of this date.)

17 THE COURT: I think this will be a good time for
18 us to stop then if you are through with that
19 particular part of it and take our lunch break. There
20 is something I got to do otherwise for the next 30
21 minutes and then we will have a lunch hour. So would
22 I ask you to be back in the jury room at two o'clock.
23 We'll get started just as soon as we can after that.
24 Again, I remind you not to discuss the case even among
25 yourselves. The only time you are to discuss it is at

1 us and Mr. Bisnauth is present along with his
2 attorney. All right. I believe you were on the
3 stand. You are still under oath. Continue your
4 examination.

5 MS. HAMILTON: The State is done with their direct
6 examination. Please answer any questions the defense
7 may have.

8 THE COURT: Yes, ma'am.

9 CROSS EXAMINATION

10 BY MS. BURRIS:

11 Q Mr. Burkhardt, how are you today?

12 A I'm well. How about yourself, ma'am?

13 Q Good. Thank you.

14 Now, even though there has been some testimony in regards to
15 you being the case agent and Marvin Brown being the case agent.
16 Tell me, were you the case agent or was Marvin Brown the case
17 agent?

18 A Marvin Brown was the case agent, but the solicitor's
19 office thought it would be best for me to be the case agent.

20 Q Okay.

21 THE COURT: What does it mean when you are a case
22 agent?

23 THE WITNESS: Usually it's the lead investigator,
24 Your Honor, but Marvin Brown was the lead investigator
25 for this case.

1 Q Okay, Marvin Brown was the lead investigator?

2 A Yes, ma'am.

3 Q Okay, but you were the the case agent who actually sat
4 in here during the testimony of all the officers who testified
5 before?

6 A Yes, ma'am.

7 Q And so they designated you as the case agent for this
8 case for the trial of this case?

9 A Yes, ma'am.

10 Q Okay, and you were also the evidence technician,
11 correct?

12 A That is correct.

13 Q And you recovered the cell phones from Sandpiper
14 Drive, right?

15 A Yes, ma'am.

16 Q Okay, and in the recovery of these cell phones --

17 THE COURT: It wasn't recovered.

18 MS. BURRIS: I apologize. That's what the words
19 say on the summary.

20 THE COURT: Just because somebody else made a
21 mistake doesn't mean you make a mistake.

22 Q Okay, you collected the cell phones, right?

23 A I did, yes.

24 Q So in collecting the cell phones, you had the
25 opportunity to look at the data content on the cell phones,

1 correct?

2 A I did not look at the data on them. I just collected
3 them for somebody else if they wanted to do that at that point.
4 I know through investigations drug dealers use those types of
5 things so I just collected those so if it wanted to be done
6 later it could be done.

7 Q Okay.

8 A But I did not go through any of the cell phones.

9 Q Okay. Now you testified when Miss Hamilton asked you
10 where were the cell phone collected from, you said the majority
11 of those was the master bedroom right?

12 A In the closet. I believe the major of them were from
13 the closet, yes, ma'am.

14 Q The closet of the master bedroom?

15 A Correct.

16 Q And there are also cell phones recovered out of the
17 closet located in the living room area too, right?

18 A I would have to look at my evidence inventory sheet to
19 remember. I don't remember.

20 Q Okay. I will show you your evidence inventory?

21 A Okay.

22 MS. BURRIS: If I may approach the witness?

23 THE COURT: Sure.

24 MS. BURRIS: Thank you.

25 Q Now I want you to tell the jury based on that evidence

1 inventory in which you completed where did you say the cell
2 phones were collected from? All cell phones?

3 A Yes, ma'am. So, two LG Smart phones were recovered in
4 a purse in the master bedroom closet, a LG flip phone was
5 recovered in a Nike shoe box in the master bedroom closet.
6 Three additional cell phones were recovered in the master
7 bedroom closet. I believe that's all the cell phones.

8 Q And so based on your testimony all of the cell phones
9 were actually collected from the master bedroom closet, rights?

10 A Yes, ma'am.

11 Q Okay, and you remember the layout of the home, correct?

12 A For the most part.

13 Q For the most part. Okay. And so you went in to the
14 home, right, and you have been doing this about six years?

15 A Drug investigations yes, ma'am.

16 Q Drug investigations for six years but you have
17 previously law enforcement experience?

18 A I do, yes.

19 Q Okay. So you went in to the home and you sort of
20 looked to see exactly where the bedrooms were located, where the
21 closets were located because you wanted to go through the
22 closets?

23 A Yes.

24 Q And when you went into the master bedroom did the
25 master bedroom have one or two master closets?

1 A I believe it was just one.

2 Q Just one master closet, right?

3 A Yes, ma'am.

4 Q All right. And this -- I'm going to show you that
5 photo that was introduced into evidence by Mr. Brown.

6 A The one with the clothes?

7 Q Yes, sir. All right. So let me show you this photo
8 which has previously been marked as State's Exhibit One. That
9 is the closet that was actually located in the master bedroom,
10 correct?

11 A Yes.

12 Q Okay. I am going to show you what the defense is going
13 to mark as my next exhibit..

14 (WHEREUPON, it was shown to Ms Hamilton.)

15 MS. HAMILTON: No objection, Your Honor.

16 (Defendant's Exhibit Seven, photographed, marked
17 for identification as of this date.)

18 Q Are you familiar are you familiar with this photograph?
19 I am going should show you what is marked as Defendant's Exhibit
20 Five?

21 A Yes. I believe this is the same picture of the closet,
22 just from a different view point.

23 Q Okay. So that's the same closet. That's a fair and
24 accurate depiction of what you saw on that day, right?

25 A Yes, ma'am.

1 Q All right. I would like to admit Defendant's Exhibit
2 five?

3 THE COURT: It is already in without objection.

4 MS. BURRIS: Thank you.

5 (Defendant's Exhibit Five, photograph, received in
6 evidence as of this date.)

7 Q Now on your evidence inventory sheet -- do you still
8 have it?

9 A I do.

10 Q You mentioned that all cell phones were recovered out
11 of the master bedroom closet, right?

12 A Yes, ma'am.

13 Q I am showing you what has been marked as Defendant's
14 Exhibit Seven. You are familiar with this photo based on what
15 you saw on 10/15.

16 A That is a different closet. That is not the master
17 bedroom closet.

18 Q Okay, so this is a different closet, right?

19 A Yes, ma'am.

20 MR. BURRIS: Your Honor, I would like to admit
21 Defendant's Exhibit Seven into evidence.

22 THE COURT: Any objection?

23 MS. HAMILTON: No objection.

24 THE COURT: All right.

25 (Defendant's Exhibit Seven, photograph, received

1 in evidence as of this date.)

2 Q So, that's a different closet, right?

3 A Yes.

4 Q And in that particular closet at the top there are
5 three cell phones, right?

6 A There are.

7 Q And that particular closet you just testified there was
8 only one master bedroom closet, right?

9 A Yes.

10 Q So apparently the cell phones that you actually
11 recovered -- I'm sorry collected, were placed in or were
12 actually out of the closet that was in the living room area,
13 right?

14 A No, ma'am, these may have been different cell phone
15 that we decided not the to collect on the scene.

16 Q Okay. So those are cell phones that you did not
17 collect?

18 A I can not recall, but there may have been other cell
19 phones on the scene that we did not collect.

20 Q Okay. Okay. And so as far as you know this was a
21 closet -- do you know where this closet was?

22 A I don't.

23 Q Okay. So there were other cell phones it looks like it
24 is about three cell phones in Defendant's Exhibit Seven that you
25 think you just maybe didn't collect, right?

1 A Yes, ma'am.

2 Q All right. I am going to show you what is being marked
3 a Defendant's Exhibit Eight, Nine, Ten.

4 (Defendant's Exhibit Eight, Nine and Ten,
5 photographs, marked for identification as of this
6 date.)

7 MS. HAMILTON: Without objection.

8 THE COURT: All right, without objection in
9 evidence.

10 (Defendant's Exhibit Eight, Nine and Ten,
11 photographs, received in evidence as of this date.)

12 Q I will show you what has been marked and admitted into
13 evidence as Defendant's Exhibits eight, nine and ten. First
14 item is Defendant's Exhibit Eight. What is that a photograph
15 of?

16 A A small piece of marijuana on some clothing.

17 Q Okay, and that marijuana was collected from where?

18 A I believe this is the marijuana that was in the master
19 bedroom.

20 Q In the master bedroom?

21 A Yes, ma'am.

22 Q And when you went into the house with Commander Marvin
23 Brown, you remember smelling marijuana in the house?

24 A Yes, stale, burnt smell of marijuana.

25 Q It smelled like someone had actually been smoking

1 marijuana?

2 A At some time fairly recently.

3 Q Fairly recently?

4 A Yes.

5 Q And then you actually found marijuana on Antonio
6 Vasquez?

7 A Yes.

8 Q And you also found marijuana in the master bedroom
9 right?

10 A Yes. Ma'am.

11 Q And Lashunda McMoore also was charged with possession
12 of marijuana, wasn't she?

13 A I honestly do not remember.

14 Q You don't remember?

15 A No.

16 Q You read the case file summary?

17 A I did, yes.

18 Q Do you remember on the case file summary?

19 A I'm not arguing that she wasn't. I just know I didn't
20 write the ticket. I just can't remember.

21 Q Okay. If I refresh your recollection?

22 A Yes.

23 MS. BURRIS: If I may approach the witness?

24 THE COURT: Sure.

25 (WHEREUPON, a document was shown to the witness.)

1 Q Lashunda McMoore, was she charged with possession of
2 marijuana?

3 A Yes, she was, first offense. It was a ticket.

4 Q Thank you. Now I will show you what has been admitted
5 into evidence, Defendant's Exhibit Nine.

6 A Okay.

7 Q Do you remember seeing that?

8 A I don't remember seeing this. It looks like marijuana,
9 at most maybe a gram on a floor on an envelope with a couple of
10 dollars, but I don't remember taking this picture.

11 Q Okay.

12 Q You don't remember seeing that?

13 A I don't.

14 Q Now, it's my understanding that you took photos and
15 Marvin Brown took photos, right?

16 A Yes, ma'am.

17 Q And it's my understanding that Marvin Brown actually
18 took all the black and white photos and you took the colored
19 photos, right?

20 A Yes, ma'am.

21 Q So you don't remember everything that you took photos
22 of?

23 A I honestly do not remember this picture. There was a
24 lot of photos taken that day. So, no, ma'am, I just don't
25 remember taking this picture.

1 Q So you just don't remember which room?

2 A No, ma'am, I don't.

3 Q Okay. Do you remember which room actually had carpet
4 in it?

5 A I believe -- I know the bedroom had carpet in it in and
6 the living room had carpeting at the time.

7 Q Living room and bedroom?

8 A Yes, ma'am. And it's my understanding that when you and
9 Marvin Brown and I think additional four or five other drug
10 enforcement agent officers arrived seems like Antonio Vasquez
11 looked like he had just woken up.

12 A I did not come in contact with him at that first stand
13 point so I can't testify what his demeanor was right then and
14 there.

15 Q Okay, so did you actually go with Marvin Brown at the
16 same time or you came afterwards?

17 A Shortly after.

18 Q Just shortly afterwards?

19 A Shortly after, yes.

20 Q Okay. On Defendant's Exhibit 10 this is one of the
21 items that you actually recovered, right?

22 A Yes, ma'am, the photo.

23 Q And you remember coming in contact was Lashunda
24 McMoore, right?

25 A Yes.

1 Q And you remember coming in contact with Antonio
2 Vasquez, correct?

3 A Yes, ma'am.

4 Q And you remember coming in contact with Neco Tucker,
5 right?

6 A I don't believe I ever came in contact with Neco
7 Tucker. He was the one that was in the vehicle, correct?

8 Q Yes.

9 A I don't believe I ever had contact with him.

10 Q You were in the house how long doing the investigation?

11 A The vast majority of the investigation but Neco he
12 arrived in the vehicle that came up on scene. I think he was
13 brought inside at some point but I don't believe I had any
14 conversation with Neco.

15 Q He didn't just arrive in a separate vehicle. He
16 actually arrived in the vehicle --

17 A Right, correct.

18 Q -- with Lashunda Mcmoore?

19 A Right.

20 Q So he came in with with Lashunda McMoore?

21 A I believe he was brought in with them, yes. I just did
22 not have any contact with him personally.

23 Q So you don't know the relationship of Neco Tucker and
24 Antonio Vazquez, do you?

25 A I don't.

1 Q And you don't the relationship of Neco Tucker and
2 Lashunda McMoore do you?

3 A I don't.

4 Q And you don't know how long Neco Tucker and Antonio
5 Vasquez had been living in this house do you?

6 A I don't believe they were living in the house.

7 Q You don't know, right? Did you have opportunity to
8 speak to them?

9 A From the information that we gathered from them that
10 day that I have seen it shows that they were not living at that
11 residence.

12 Q Okay. Let's talk about that. So, when you do gather
13 information and you are doing an investigation, isn't it true
14 that you go through a whole interview process?

15 A It depends on what the investigation is at the time.
16 Yes, we interview the suspects.

17 Q You interview the suspect, right?

18 A Yes, ma'am.

19 Q And isn't it true that the suspects were Lashunda
20 Annette McMoore from Sandpiper Drive and suspect was
21 Antonio Rafael Vasquez from Sandpiper Drive?

22 A Yes, ma'am. The reason he was a suspect in this case
23 was because of a little of marijuana that was found on him.

24 Q Okay. So -- okay. All right. So he was a suspect
25 because of a little bit of marijuana found on him. But let's

1 talk about the address.

2 Do you know that as the suspect Antonio Rafael Vasquez his
3 listed address on the case report summary from that same day is
4 Sandpiper Drive, 29732?

5 A That's what the report says, yes, ma'am.)

6 Q Yes?

7 A That what the report says.

8 Q And you saw that, right, you read that?

9 A The original case report, yes, does say that. I saw
10 that.

11 Q And you were one of the original investigating
12 officers, right?

13 A I was. Well, my main job for that day and for the case
14 was to collect evidence. I did not type up that report.

15 Q So typically as a part -- you have you been on the drug
16 enforcement unit for six years?

17 A Yes, ma'am.

18 Q Excuse me one second. And when you go through an
19 interview process you basically write down the person you
20 interview their address, telephone number and all of that?

21 A That is standard protocol, yes, ma'am.

22 Q Neco Tucker was as Sandpiper Drive, right?

23 A Yes, he was there when we executed the search warrant.

24 Q Didn't ask for his identification?

25 A I did not.

1 Q Don't know how long he is actually been living this
2 this house?

3 A I don't know.

4 Q Did not take the time to actually interview him as part
5 of this investigation and he was found in the house,
6 Sandpiper Drive where drugs were found, right?

7 A Like I said my job that day was to collect evidence.

8 Q Okay. And I ask you the same line of questions for --
9 questions for Antonio Vasquez. You knew that he was subject or
10 suspect with his address listed as Sandpiper Drive, but you
11 didn't go through the process of ever asking for his
12 identification, didn't go through the process of taking time to
13 interview him at all. Right?

14 A Again, ma'am, my job that day was to collect evidence.

15 Q With your six years of experience with York County
16 Multi-Jurisdictional Drug Enforcement Unit when you are doing
17 surveillance --

18 THE COURT: Don't make a speech. Ask a direct
19 question. You don't need to preference every question
20 with a speech.

21 MS. BURRIS: Yes, sir.

22 Q When doing surveillance you have what we call a
23 surveillance report. Do you remember filing out a surveillance?

24 A I did not fill out a surveillance report. I was not
25 part of the surveillance team.

1 Q Okay. You read the case file?

2 A Yes, ma'am.

3 Q Do you remember ever seeing a surveillance report in
4 the the case file?

5 A I did not see one for.

6 Q You did not see one.

7 A I don't remember seeing one, no.

8 Q When you sees monies and you release money back to an
9 individual like Lashonda McMoore --

10 A Yes, ma'am.

11 Q -- based on your experience in the drug enforcement
12 unit, you are suppose --

13 THE COURT: Don't do that. I told you. Don't
14 make a speech. Ask a direct question.

15 Q Do you remember filling out a release --

16 A I don't.

17 Q -- for the monies return?

18 A I don't, no, ma'am.

19 Q Okay. But you handled the monies, right?

20 A I handled the monies that went in to the bank. Yes,
21 ma'am.

22 Q So you would have handled the monies from -- taken from
23 Lashonda McMoore?

24 A That went in the bank, yes, ma'am.

25 Q The monies taken from Lashonda McMoore, did that go

1 into the bank?

2 A Some of it did.

3 Q Right. So you handled that money, right?

4 A Yes.

5 Q Okay. And you also handled the money taken from Mr.
6 Bisnauth, right?

7 A Yes.

8 Q Okay.

9 A I just wasn't involved with the seizure paperwork
10 process of that.

11 Q Okay. Okay. But now there is a process since you did
12 handle the money that is deposited into the bank based on your
13 testimony. There's a process that you are suppose to go
14 through?

15 MR. HOOGE: Objection. Is this a question.

16 MS. BURRIS: Yes, there is a question. I will ask
17 the question direct.

18 Q Officer, any monies -- yes or no, any monies that you
19 seize has to be witnessed by at least three officers, yes or
20 know?

21 A I believe it's just one.

22 Q Just one.

23 A I honestly can't remember. I know there's one spot for
24 the witness. On the paperwork there's a spot for one witness to
25 sign.

1 Q Just one. Okay.

2 A Normally there is a several officers involved just so
3 everything is on the up and up.

4 Q Okay. So any deposit slip that you use in depositing
5 the money it has to be completed for seizure of the money,
6 right?

7 A Yes, ma'am.

8 Q And once you complete the deposit slip the deposit bag
9 has to be sealed, right?

10 A Yes, ma'am.

11 Q And then the deposit bag is taken to the bank?

12 A Yes, ma'am.

13 Q Yes or no, any copies or photographs of the money has
14 to be placed in the case file summary or case folder?

15 A It doesn't have to be.

16 Q It doesn't have to?

17 A No. The seizure is civil issue, not a criminal issue.
18 Two separate things.

19 Q Your part of the York County Multi-Jurisdiction Drug
20 Enforcement Unit?

21 A I am.

22 Q All right. Are you familiar with the policies and
23 procedures of York County Multi-Jurisdictional Drug Enforcement
24 Unit?

25 A Yes, ma'am.

1 Q And you're aware of the task force manual?

2 A Yes, ma'am. I haven't read it cover to cover in a
3 little while. It's a large book.

4 Q What's a little while?

5 A Probably a couple years.

6 Q A couple of years?

7 A Yes, ma'am.

8 Q And that's very important, right?

9 A Yes, ma'am.

10 Q When you're seizing money to take a picture and place
11 it in an evidence bag I assume similar to this, right?

12 A It's placed into an evidence bag very similar to that,
13 yes, ma'am.

14 Q And you are suppose to make that part of the case
15 folder, right?

16 A I know it's part of the seizure case folder which is a
17 criminal -- civil issue, not a criminal issue. Two separate
18 case folders. Two separate courts. If that makes sense to the
19 jury. We're in criminal court today. We're in a criminal
20 proceeding. We have a criminal case folder. There's also a
21 civil issue with is a money seizure. A civil case folder is
22 created for that and given to a civil court.

23 Q Okay. So you took the money. Did you even take a
24 picture of the money?

25 A Picture of the money, I do not remember.

1 Q Take a picture of the deposit slip?

2 A A photo copy is made and placed with that case folder.

3 Q Okay.

4 A And again, I did not handle the seizure paperwork for
5 this, but standard procedure when we seize money a photocopy of
6 the deposit slip is made and put in that civil folder to go
7 forward.

8 Q But you did state that you did take the money that had
9 to go to bank, right?

10 A Yes.

11 Q So you would know about the deposit slip?

12 A Yes, there's a deposit slip in the evidence bag with
13 the money.

14 Q But you didn't make it part of this file, right?

15 A No. I did not put this folder together. I can not
16 testify as to whether or not it is in there or it isn't in
17 there.

18 Q Now, when you went in to the house there were drugs
19 found in other parts of the house, right?

20 A I believe small amounts of marijuana, yes, ma'am.

21 Q Okay. And you took time to fill out the evidence
22 inventory sheet and supplemental inventory sheet, correct?

23 A Yes, ma'am. And the supplemental inventory sheet just
24 for everybody's understanding there was just so many pieces of
25 evidence I couldn't get it on one piece of paper so the

1 supplemental is just additional pieces of evidence?

2 Q Okay. Now, in looking at the photos with the -- it has
3 been previously marked and admitted into evidence State's
4 Exhibit Three?

5 A Yes, ma'am.

6 Q There was some testimony in regards to the yellow
7 Tupperware?

8 A Yes, ma'am.

9 Q Okay. And in regards to the yellow Tupperware that is
10 actually sitting on top of a storage container, right?

11 A Correct.

12 Q And that particular storage container was in the house,
13 right?

14 A Yes.

15 Q And there were no fingerprints found on storage
16 container, right?

17 A The yellow one or the blue one?

18 Q The blue one.

19 A We did not ask, or have any fingerprints done on the
20 blue one.

21 Q Okay. But you did have fingerprints --

22 A We had DNA and fingerprints analysis done on the yellow
23 container.

24 Q Okay, and you did not find Mr. Shawn Bisnauth's?

25 A We found nothing. It was like it had been wiped clean.

1 Q And they're both plastic, right?

2 A They are.

3 Q So you could have fingerprinted the blue storage
4 container, right?

5 A Yes, ma'am. Normally when it comes to fingerprinting
6 and DNA testing because it does cost money, cost a lot of time,
7 a supervisor normally informs us which items they would like us
8 to test because it takes a lot of time and money to do those
9 type of things. So we only do it on important items and in
10 important cases which of course this is.

11 Q Now, the Samsung tablet that was found in the master
12 bedroom --

13 A Yes, ma'am.

14 Q Do you know whether or not that was Shawn Bisnauth,
15 Antonio Vasquez, Lashonda McMoore or Neco Tucker?

16 A I do not.

17 Q You don't know?

18 A I don't know who it belonged to, no, ma'am.

19 Q Would it surprise you that you wrote down on the
20 evidence envelope that the suspect was only Shawn Bisnauth, the
21 Samsung tablet belonged to Shawn Bisnauth?

22 A No, it wouldn't. He's the suspect in this investigation
23 in which that was collected.

24 Q But, for example, what has already been admitted into
25 evidence, State's Exhibit 20, you have suspect Bisnauth and

1 McMoore, right?

2 A Yes, ma'am because I do know that this cocaine --
3 collected was definitely tied to both of them or pertained to
4 both of them.

5 Q Okay.

6 A And I will grant you that tablet could have absolutely
7 have been hers.

8 Q And it could also be Antonio Vasquez or Neco Tucker,
9 right?

10 A It could have is been, yes, sir.

11 A I don't know who it belonged to.

12 Q But you wrote down Shawn Bisnauth?

13 A I did, yes.

14 Q Okay. And the mini iPad that was recovered on October
15 15, 2015 would it surprise you that you wrote Shawn Bisnauth as
16 the only suspect?

17 A No, ma'am.

18 Q And it could have been, the mini iPad could have
19 belonged to Lashunda McMoore?

20 A It could have belonged to any the four, yes, ma'am.

21 Q Okay, Neco Tucker or Antonio Vasquez?

22 A Yes, ma'am.

23 Q Is it your position that Lasonhdra McMoore was the
24 owner of the purse found in the master bedroom?

25 A I don't know who the purse belonged to ma'am.

1 Q So you are saying that it could have been --

2 A I would assume that it's her bedroom, I would assume it
3 belongs to her, yes.

4 Q Okay. But when you recovered the two smart phones out
5 of the purse in the master bedroom closet you wrote that Shawn
6 Bisnauth was the one who owned the purse in the master bedroom
7 closet?

8 A I said the purse belonged to him? I didn't collect the
9 purse.

10 Q You collected the phones out of the purse?

11 A Okay.

12 Q And you did not say Lashunda McMoore was the owner of
13 the purse but you said Shawn Bisnauth was the owner of the
14 purse?

15 A I don't believe I said he was owner of the purse,
16 ma'am. If I collected the phones and I --

17 MS. BURRIS: May I approach the witness, Your
18 Honor?

19 THE COURT: Yes.

20 (WHEREUPON, a document was handed to the witness.)

21 A This says to two smart phones located in a purse in the
22 master bedroom. That the suspect says Shawn Bisnauth.

23 Q Okay. So now today what you are telling us is that
24 Shawn Bisnauth owned the purse in the master bedroom, right

25 A That's not what I am saying ma'am.

1 Q I'm sorry.

2 A That's not what I am saying.

3 Q Well, that's what you wrote down?

4 A I said that he was a suspect in a case where those
5 phones were recovered. And those phones are the exact same
6 thing as tablet, they may have belonged to Miss McMoore.

7 Q They may have belonged to Miss McMoore, Antonio Vasquez
8 or Neco Tucker, right?

9 A Yes, ma'am.

10 Q Yes or no, you would agree that Defendant's Exhibit
11 Seven is not the master bedroom closet where the clothes were
12 found, right?

13 A That's my recollection, yes, ma'am.

14 Q Now you mentioned that there were phones recovered out
15 a Nike shoe box?

16 A A what ma'am?

17 Q A Nike shoe box?

18 A Yes, ma'am.

19 Q All right.

20 A One LG flip phone was recovered from a Nike shoebox in
21 the master bedroom closet

22 Q And you didn't get the size?

23 A Of?

24 Q The shoe box or the shoes in the box?

25 A No, ma'am, I did not.

1 Q Okay. And so, you're not certain of what size it is
2 and who the shoe box belonged to?

3 A No, ma'am.

4 Q So the shoe box could actually belong to Antonio
5 Vasques?

6 A It was in the master bedroom that we know Shawn and
7 Miss McMoore to stay in. So I would say it's one of those two.

8 Q Did you recover the shoe box?

9 A I don't believe so.

10 Q Do you know what size shoe Shawn Bisaught wears?

11 A I do not.

12 Q Did you take time to find out what size shoe he wears?

13 A No, I did not.

14 Q So you can't say that the shoe box then doesnt belong
15 to Antonio Vasquez or Neco Tucker, right?

16 A No, ma'am.

17 Q You were here when Lashonda McMoore plead guilty,
18 right? You were in the courtroom?

19 A I was here for a portion of that court proceeding. I
20 was not here for all of it. I was here for the beginning of it
21 and then I did not come back into the courtroom afterwards.

22 Q So you don't know the outcome of what happened?

23 A Outside of what I've heard in this courtroom today I
24 know she plead guilty to one charge, but I know that from
25 sitting in this courtroom today.

1 Q From the portion of the time that you were in the
2 courtroom do you remember the prosecutor asking her -- or do you
3 remember her stating on the record under oath?

4 MS. HAMILTON: Objection, Your Honor. This is
5 hearsay.

6 THE COURT: I don't know. Tell us what you
7 remember from the proceedings.

8 THE WITNESS: I remember being in here briefly,
9 Your Honor. When she took the stand the prosecutors
10 took some objections to what she was testifying to.
11 We broke during that time period. I left the
12 courtroom during that break and I did not return after
13 that.

14 Q So at the beginning of the proceeding during the time
15 that you were in here --

16 A Yes.

17 Q -- do you remember Lashunda McMoore stating that Shawn
18 Shawn Bisnauth lived at Tributary Drive?

19 A Do I not remember that.

20 Q You were in here about how long sir?

21 A For her testimony, it was less than probably two
22 minutes. It ended pretty quickly. From where I was. From what
23 I say her testimony was probably two minutes or under that I
24 saw. I believe some more took place after I was gone.

25 Q Do you remember whether or not she actually testified

1 in the morning and then in the afternoon?

2 A I believe what I was here for was a little in the
3 morning, not the afternoon. I don't know what happened after I
4 left. I wasn't here.

5 Q It's important to you as a case agent to know what
6 happens with these cases, right?

7 A Yes, ma'am.

8 Q And for the two minutes that you were in here you know
9 that the State had an agreement with her, right? You found that
10 out?

11 A I did not know anything to the terms of her agreement.
12 The only thing I knew is what I saw coming from the witness
13 stand that day. I was not a part of any conversations for any
14 agreements that would be made or would not be made.

15 Q Okay. So you actually came but you came for the
16 purpose of a trial?

17 A That's correct.

18 Q And you knew that the trial wasn't going to take place?

19 A Yes, and once we found out that the trial wasn't going
20 to take place I left. I wasn't needed.

21 Q So you didn't find out exactly why the trial wasn't
22 going to take place?

23 A I knew I wasn't needed for court so I left. Had other
24 things to go to do.

25 Q And you've met with assistant solicitor Hamilton since

1 that day haven't you?

2 A Yes, ma'am.

3 Q And you know exactly what happened, don't you?

4 A No, ma'am. We never discussed what happened in that.
5 We were solely focused on this case right now.

6 Q And as case agent you didn't think it was important to
7 find out?

8 A I wasn't the case agent of that ma'am.

9 Q Or co-case agent?

10 A Yes. I'm the case agent here today because I collected
11 the evidence. Commander Marvin Brown put that entire case
12 folder together, wrote out the summary, wrote up the reports.

13 Q Now, as evidence technician the box of sandwich bags
14 that you collected?

15 A Which box ma'am?

16 Q I'm sorry, sandwich baggies?

17 A The ones from the garage?

18 Q Yes, sir. So were those actually collected from the
19 garage?

20 A There were multiple different packaging materials.

21 Q Okay.

22 A I know there is a picture with a trash bag and some
23 ziplock bags.

24 Q This has been marked as State's Exhibit 14? (Handed)

25 A Yes, ma'am. Yes, this he was taken in the garage?

1 Q That picture was taken in the garage, right?

2 A Yes, ma'am.

3 Q But those baggies were not actually collected in the
4 garage, were they?

5 A No, ma'am.

6 Q They were actually collected under the kitchen sink,
7 right?

8 A No. No. Again ma'am, two different packaging
9 materials. These are not the bags that I opened up in evidence
10 just before we broke for lunch. These are two separate items.

11 Q Okay.

12 A Yes. Both came out of black plastic bags but two
13 different packaging materials.

14 Q Okay, and so then the black plastic bag was found
15 where?

16 A Which black plastic bag?

17 Q That one.

18 A This one right here was all located in the garage.

19 Q In the garage?

20 A Yes, ma'am.

21 Q Okay. So this in this evidence inventory sheet number
22 nine, which packaging material were you referring to?

23 A Can I see?

24 Q Sure.

25 A That would be this one right here ma'am. Careful, a lot

1 of little pieces.

2 Q Little pieces, is what you are referring to?

3 A Packaging material. There is lots of little rubber
4 bands like what just fell out and small wax pieces of paper that
5 is used to store heroin.

6 Q Okay. All right. Thank you.

7 A Yes, ma'am.

8 Q Now, on this picture on State's Exhibit 14 where did
9 that black trash bag come from?

10 A The garage.

11 Q Okay.

12 A Two separate black trash bags both containing packaging
13 material just different types of packaging materials in two
14 different locations.

15 Q Okay. I am going to show you what is being marked as
16 Defendant's Exhibit -- it's my understanding the State has it up
17 here already. State's Exhibit Number Six. That's a cell phone,
18 right?

19 A Yes, it is.

20 Q And chargers?

21 A Correct.

22 Q And it looks like some type of Glade or something.

23 A It's a plug-in, a fragrance plug-in, yes, ma'am.

24 Q Now, did you actually look at the contents of the data
25 in that cell phone?

1 A I don't believe I did. I don't remember.

2 THE COURT: Did you look at anything in the cell
3 phones.

4 THE WITNESS: No, Your Honor. My main goal was to
5 collect them. If somebody else wanted to look into
6 them they could do that because this really wasn't my
7 investigation.

8 Q If it wasn't your investigation who investigation was
9 it?

10 A Commander Marvin Browns.

11 Q Okay.

12 A My job as evidence tech is just from my knowledge and
13 experience to whatever I may see in a room when I'm searching to
14 collect it. If it could potentially hold some type of
15 evidentiary value to the case I'll make sure we take it.

16 Q And being in the house on that day, do you remember
17 whether or not there were beds in that master bedroom?

18 A I believe there was a bed but for what type of bed it
19 was, what we were talking about earlier I can not recall.

20 Q Can you recall whether or not it was a bed or air
21 mattress?

22 A I can not, no, ma'am.

23 Q And in the room in which they found the other drugs can
24 you recall whether or not there was a bed or air mattress?

25 A No, I could not.

1 Q So you don't know if there was anywhere to sleep; yes
2 or no?

3 A I know there was a bed in the master bedroom. Beyond
4 that, no, ma'am.

5 Q A bed or an air mattress?

6 A Yes, it could be either one. A place to sleep.

7 Q When you go in a bedroom one of the first things you
8 notice is a bed and furniture, right?

9 A Again ma'am, two years ago. I worked lots of cases.
10 I've taken tons of pictures between now and then. The pictures
11 I have here helps refresh your memory.

12 Q So you don't know?

13 A No.

14 Q And on that day with all the pictures that you took you
15 didn't think it was important to take a photo of the entire room
16 did you?

17 A I did not take a picture of the entire room, no.

18 Q In fact you didn't think it was important to take a
19 photo of any of the rooms in the house, right, in there
20 entirety?

21 A No, ma'am, I did not do that.

22 Q You can not testify under oath whether or not Antonio
23 Vasquez, Neco Tucker was living or staying in that master
24 bedroom, can you?

25 A I just know that they gave their address as a different

1 place in Virginia.

2 Q And that's all it took for them to give a different
3 address?

4 A Yes, ma'am, that's my knowledge as to where they lived.

5 Q Shawn Bisnauth -- you mentioned that there were, a
6 little bit of drugs found in another room, right?

7 A I think some partially smoked marijuana joints.

8 Q Shawn Bisnauth and Lashunda Moore were charged with
9 that too, right?

10 A The home was theirs. The amount of marijuana that was
11 in his bedroom as compared to the amount of marijuana that was
12 found throughout the rest of the house it wouldn't matter if
13 it's just one or the other. It's all just a simple possession
14 charge.

15 Q You charged him with the other drugs found in a
16 different bedroom, didn't you; yes or no?

17 A I honestly do not remember. I know he was charged with
18 what was found in his bedroom.

19 Q The Nike shoe box?

20 A The one from the other closet ma'am?

21 Q Yes, sir.

22 Q Is that the Nike shoe box you are referring to?

23 (Indicating)

24 A No, I don't believe so ma'am. There's nothing on that
25 box that says Nike from what I can see.

1 Q So it's a different shoe box?

2 A I would believe so, yes, ma'am.

3 Q So it wasn't photographed?

4 A What?

5 Q The Nike shoe box?

6 A Where the phones were found in the master bedroom
7 closet, no, ma'am, I don't believe so.

8 Q In the photos of the medicine that were taken had Shawn
9 Bisnauth's address on it, right; yes or no?

10 A It has his mother's address on it.

11 Q Had the Tributary Drive on it, didn't it?

12 A Yes, that was the address that was on the medicine
13 bottles.

14 Q Yes or no, same address that was on his driver's
15 license?

16 A Correct.

17 Q Same address that was on his ten-year driving record?

18 A Correct.

19 MS. BURRIS: Thank you. I have no further
20 questions at this time.

21 MS. HAMILTON: Your Honor, I do want to address
22 the transcript, so we can have full disclosure to the
23 jury. It has been mentioned multiple times.

24 THE COURT: Are you talking when she plead?

25 MS. HAMILTON: Yes, Your Honor. Since it has been

1 mentioned multiple times we would like full
2 disclosure. We would like to put it into evidence.

3 THE COURT: Any objection?

4 MS. BURRIS: I am going to object.

5 THE COURT: All right. I will sustain the
6 objection.

7 MS. HAMILTON: Thank you, Your Honor.

8 THE COURT: It is not relevant really.

9 MS. HAMILTON: Thank you, Your Honor.

10 REDIRECT EXAMINATION

11 BY MS. HAMILTON:

12 Q Just one quick question.

13 A Yes, ma'am.

14 Q What made you believe that the drugs that were found in
15 this residence were in fact the defendant's?

16 A He was the main target of our investigation so when we
17 found his bedroom and we found the drugs in his bedroom that's
18 the conclusion we came too.

19 Q And did you ever hear him state that his residence was
20 ?

21 A I did not, no. I had no interview. I didn't speak with
22 Mr. Bisnauth.

23 Q So did you have any doubt that those were the
24 defendant's?

25 A I did not.

1 Q And what made you not think they were anybody else's in
2 that home?

3 A Again, the information that we had at the time that led
4 us to the search warrant where we did execute it, the
5 information that we received. Once I located the bedroom being
6 his and the information we had, I went into that house expecting
7 to find heroin and we found heroin.

8 MS. HAMILTON: Thank you. No further questions.

9 THE COURT: Thank you, very much. You can return
10 to your place in the courtroom or be excused.

11 THE WITNESS: Thank you.

12 THE COURT: Call your next witness.

13 MR. HOGGE: Your Honor, our next witness is Judge
14 Malphrus who is on his way up. He said he would be
15 here in about ten minutes. If we can take a short
16 break.

17 THE COURT: All right. I'll let you go to the
18 jury room then until the next witness gets here then.
19 We'll send for you as soon as I can.

20 (WHEREUPON, the jury exits the courtroom.)

21 THE COURT: All right, we have the jury out and
22 the door is closed. Now what is Judge Malphrus going
23 to testify to?

24 MS. HAMILTON: He's actually going to testify he's
25 a neutral Magistrate in this case. He actually heard

1 I'll be really fast. I apologize.

2 THE COURT: Better be fast.

3 MS. HAMILTON: I'll run. I apologize, Your Honor.
4 It's my mistake.

5 (WHEREUPON, the jury enters the courtroom.)

6 THE COURT: We have the jury with us and Mr.
7 Bisnauth is present along with his attorney. The
8 solicitor had to go get something from her office
9 right quick. She just ran out. Literally ran out to
10 go get it. She will be back in just a few minutes we
11 hope. So we got to wait on her.

12 MR. HOGGE: The State would call Dan Malphrus.

13 THE COURT: Come on up. Go ahead and swear him.

14 THE WITNESS: Thank you.

15 LEWIS DANIEL MALPHRUS, called as a witness, having
16 been duly sworn by the clerk, was examined and
17 testified as follows:

18 THE COURT: Tell me your name.

19 THE WITNESS: Lewis Daniel Malphrus, Jr.

20 THE COURT: All right. We will wait now for the
21 solicitor to get back to question you. Here she
22 comes.

23 MS. HAMILTON: May it please the Court, Your
24 Honor.

25 THE COURT: Go right ahead.

1 DIRECT EXAMINATION

2 BY MS. HAMILTON:

3 Q Good afternoon, Judge Malphrus. Could state your full
4 name for the Court?

5 A Yes, Lewis Daniel Malphrus, Jr.

6 Q And what is your position?

7 A I am a York County Magistrate.

8 Q And what type of work do you do in your position?

9 A My main job is being a judge in the York County Bond
10 Court and that entails giving people bond hearings. Everyone
11 who is arrested, put into custody, has the right to have a
12 hearing before a judge within 24 hours of the time they are put
13 in jail. That hearing, the judge tells them the charges that
14 they have had put upon them. When and where they have to answer
15 those charges, and that judge also has the opportunity to set a
16 bond on that individual.

17 In addition to that, during the bond hearing that judge will
18 explain their rights and privileges to include the opportunity
19 to have representation. They get representation in three ways.
20 In fact they can have representation during their bond hearing
21 if they choose to do so. Representation can be had in three
22 ways; they would hire someone to represent them, they would
23 represent themselves, or they would apply for a public defender
24 who is a court appointed card carrying member of the South
25 Carolina Bar who represents indigent folks. And the bond judge

1 would at that time determine based upon the individual's
2 testimony before him or her, whether or not the individual is
3 qualified or is actually indigent and would be able to receive
4 public defender support.

5 Q When you say indigent what does that mean?

6 A Indigent means they have no means of support. They
7 have no resources. They don't live with anyone who has any of
8 that stuff and are asking the State to provide them a public
9 defender to help them defend themselves against the charges.

10 Q How long have you been employed as a Bond Court Judge?

11 A Well, I have been doing bonds hearings since 1992.

12 Q And so you probably have the same procedure that you do
13 on a regular basis daily?

14 A That is a requirement that we use the same document
15 that is prepared, if I'm not mistaken, by court administration
16 based upon federal guidelines.

17 Q And were you so employed in your present capacity on
18 October 16, 2015?

19 A Yes, ma'am.

20 Q I would like to draw your attention to that day. Do
21 you remember holding bond court that day?

22 A If I came to work I probably held bond court that day.
23 And the reason I say that is our bond court runs 24 hours a day.
24 There are four judges who run 12-hour shifts so we are always
25 covering York County. Usually the 12-hour shifts are two days

1 on, two days off, two days on, three days off. So the
2 presumption would be I was working that day, yes, ma'am.

3 Q And you stated that have you this form when you screen
4 someone for a public defender?

5 A Yes.

6 Q If the defendant Shawn Bisnauth came in came in front
7 of you would you follow this procedure with him?

8 A Well, I would have done the same procedure with him --

9 MS. BURRIS: I object, Your Honor.

10 THE COURT: I am going to allow that.

11 A I would have done the same procedure that I would do
12 for anyone and remember that in York County there is only one
13 permanent jail and it is here at the Moss Justice Center. So
14 all people who are incarcerated unless they bond out very
15 quickly will end up here at the Moss Justice Center. So when I
16 do bond hearings it can be for Municipal, Magistrate or General
17 Sessions charges. I use the same form for everyone and ask the
18 same questions.

19 Q I have something that is marked as State's Exhibit
20 Number 29. I am going to hand this to you. It's for
21 identification purposes. Take a moment to look over that form.
22 Now looking over that form can you say that you had screened the
23 defendant, Mr. Shawn Bisnauth, for a public defender?

24 A Yes, ma'am, I have.

25 Q And you documented the answers that the defendant

1 verbally said out to you?

2 A Yes, ma'am.

3 THE COURT: Did you write it down what he said.

4 THE WITNESS: Well, more or less, Your Honor. I
5 will ask questions. He will respond. I will either
6 check or write down the response from the defendant.

7 Q Do you fill out this form with of single defendant that
8 comes in front of you?

9 A I fill out this form for everyone who requests a public
10 defender application, yes, ma'am.

11 Q And now looking at this form does the specific
12 defendant sign off his name on this form as being accurate?

13 A The defendant does sign the back of the form after I
14 have sworn the defendant to tell me the truth.

15 Q So he tells you all of this stuff under oath?

16 A Yes, ma'am.

17 Q And can you identify this form that is currently in
18 your handwriting?

19 A Well, what I have is two forms. One, the clerk of
20 court's form that addresses the fact that the defendant has been
21 approved for a public defender. I have signed it and also the
22 defendant. And then the form that I use is the affidavit of
23 indigency and application for counsel, which is form two. And
24 it is either a two or three-page document depending on how we
25 print them off in the office. And again, it is used for

1 everyone who applies.

2 Q And can you tell by looking at this exhibit who filled
3 this out?

4 A Ma'am.

5 Q Can you tell by looking at this exhibit that you filled
6 this out?

7 A Oh, yes, ma'am.

8 Q Okay. Is there any other handwriting on this form made
9 by any other person other than you besides the defendant's
10 signature?

11 A No, ma'am.

12 Q Okay.

13 MS. HAMILTON: Your Honor, the State would offer
14 State's Exhibit Number 29 for admission into evidence.

15 THE COURT: Any objection?

16 MS. BURRIS: No objection Your Honor.

17 THE COURT: All right.

18 (State's Exhibit 29, Form, received is evidence as
19 of this date.)

20 MS. HAMILTON: We ask to publish it for the jury.

21 THE COURT: Go ahead.

22 MS. HAMILTON: Thank you.

23 Q I am going to use my handy pointer. This is exhibit
24 number 29. Is this an address right here (indicating)? Could
25 you explain how you come about that information that was written

1 right here.

2 A All right. Show me again.

3 Q Right here.

4 A That is the information that I requested from the
5 defendant when he first approached my bench after I called his
6 name.

7 Q While he is under oath?

8 A No. No. This is the beginning of the bond hearing. I
9 would -- he would be brought up or he would come up and I would
10 say in this case Mr. Bisnauth, what is your present address?
11 And the response that he gives I would look to see if it's the
12 same address that is on the charging document which would either
13 be a warrant or a ticket and the information that was given to
14 the booking officer when the individual was booked in. Very
15 often the address do vary. There is a common reason for that.
16 People move and they don't always tell everybody when they do
17 move, but my plan is that when I have them in to court at a bond
18 hearing that I want to know where they are really do live.

19 Q And this is what he told you?

20 A I was told that and I believe I got it from the
21 documents from the detention center and also I asked the
22 defendant and he said that was his address.

23 Q Okay. Now, going to the next -- actually this page.
24 Sorry. His employment, what does he state?

25 A He said he was he presently not employed.

1 Q Did he state the last time he was employed?

2 A He said the year 2013 he worked for a what appears to
3 be -- I'm trying to read my own writing -- a trucking company
4 out of Kennasaw, Georgia.

5 Q Okay. And this document, what is this signature? Did
6 the defendant sign this?

7 A Yes.

8 Q Okay. And when does he sign this?

9 A He signed that after I sworn him in to say is this the
10 truth so help you God and he said yes.

11 Q Okay.

12 A So it's a sworn document at that time.

13 Q And the date on this document?

14 A Yes.

15 Q Is what?

16 A 16th of October, 2015.

17 Q Okay. And the next document. Is this the same kind of
18 situation, the commitment form?

19 A This would be the document that I would use to set his
20 bond and it's blank because it's not appropriate for those words
21 and letters to be here as I testify, but this is a document I
22 use and every bonds judge uses to set the bond. In other words
23 this is a representation of the charges, where the defendant has
24 to answer the charges and how much his or her bond would be to
25 be released from custody prior to trial.

1 Q And specifically the address stated under the
2 defendant's name?

3 A Yes.

4 Q That's also verbally told you?

5 A That's correct.

6 Q Okay. And I have a question for you, looking at the
7 defendant today, is he represented by PD right now at his table.

8 A He was approved for a public defender.

9 Q Is he represented by public defender today?

10 A I don't think so.

11 Q Okay. Thank you.

12 A She use to be a solicitor didn't you?

13 MS. HAMILTON: Your Honor, can I please pass this
14 around?

15 THE COURT: Go Ahead.

16 MS. HAMILTON: Please any questions the defense
17 may have.

18 CROSS EXAMINATION

19 BY MS. BURRIS:

20 Q Good afternoon, Judge Malphrus.

21 A Hello counselor.

22 Q Do you are remember this young man standing before you
23 on October 16th?

24 A No.

25 Q Don't remember him do you?

1 A No.

2 Q I know you just testified the whole procedure you go
3 through and one of the things that you have is the charging
4 document when the individual stands before you, right?

5 A Yes, ma'am.

6 Q The charging documents what I mean by that is actually
7 the arrest warrant that is given to you by the police officer?

8 A Technically it's given to me by the detention staff.

9 Q By the detention staff. Okay, so they give you the
10 arrest warrant and on that particular arrest warrant it has the
11 accused, in this case Shawn Bisnauth's name and address, right?

12 A Yes, ma'am.

13 Q And so you would have had the arrest warrants in your
14 hand as you are on the bench, right?

15 A Yes, ma'am.

16 Q And you also have a tape recorder on while you are up
17 there on the bench, right?

18 A No.

19 Q There is no record whatsoever?

20 A It's not a court of record ma'am.

21 Q Okay. So, your up there. You have the charging
22 document in your hand or what we call an arrest warrant and you
23 had Mr. Bisnauth who you do not remember today standing before
24 you, right?

25 A Yes, ma'am, previous testimony.

1 Q You can't say because you do not remember him standing
2 before you, you can't actually say that he gave you this address
3 versus you got it from the arrest warrant, right?

4 A Nope.

5 Q So it's possible that you looked at the arrest warrant
6 and wrote down Sandpiper Drive, right?

7 A It's possible, yes, ma'am.

8 Q And then in going through this process, Mr. Bisnauth
9 unlawful was actually approved for a public defender, right?

10 A Yes, ma'am.

11 Q And you do the assessment -- where is the form at? Is
12 it up here?

13 A It's in hand isn't it.

14 Q No.

15 A Oh, the jury has got it.

16 Q I believe they are done now.

17 THE COURT: You'll have that in the jury room at
18 the end of the case.

19 Q Okay on State's Exhibit 29, this is an affidavit of
20 indigent defense, right?

21 A Yes, ma'am.

22 Q And in determining whether or not someone is indigent
23 basically they have to be impoverished, right, and don't have
24 money, right?

25 A They have to be living within the federal poverty level

1 even if they are employed.

2 Q Okay. And on here it actually states that Mr. Bisnauth
3 has one child, yes?

4 A Remember I said I don't remember him so -- (document
5 handed to the witness.) Yeah, one child.

6 Q Okay. And it also states that he's asked whether or
7 not he has any money in a checking, savings or cash and he says
8 no, right?

9 A Yes.

10 Q And it states do you own any real estate or other
11 valuable property and the answer is no?

12 A Correct.

13 Q And based on the information that you received from Mr.
14 Bisnauth on that day you qualified him for a public defender,
15 right?

16 A Yes, ma'am.

17 Q Now isn't it true that some times you have a
18 conversation with the officers who are involved in the
19 investigation?

20 A A conversation?

21 Q Yes, or they give you a bond form, what we call a bond
22 form? A bond form?

23 A The officers involved in the investigation?

24 Q Uh-huh.

25 A I'm a little confused ma'am.

1 Q Okay. I'm going to show you for identification
2 purposes only.

3 (Defendant's Exhibit 11, Form, marked for
4 identification as of this date.)

5 Q Do you remember seeing this bond form? And you can't
6 read from it but do you remember seeing it?

7 A I understand. I can not truthfully say I remember
8 seeing it.

9 Q Okay.

10 A I have seen them before. I don't know if I had seen
11 this one. Sometimes they are there, sometimes there not.

12 THE COURT: Keep your voice up.

13 A Sometimes there present, some times they're not. So I
14 can't attest to that being with the other documents.

15 Q Okay, but on this bond form at the bottom of it it
16 says, Marvin Brown, right?

17 A M.R., yes.

18 Q M.R. Brown. And it says please deny bond, right?

19 A Yes, ma'am.

20 Q Would that have been information you received from
21 Marvin Brown on that day, October 16th?

22 A I would presume so.

23 Q And again, it's your testimony that you can not say
24 under oath to this jury that you know that you got this address
25 from Shawn Roseberry Bisnauth, correct?

1 A No, I can't.

2 Q Versus getting this information from the charging
3 document that were given to you from the detention staff?

4 A Or the information that was received by the detention
5 center when the defendant was booked in.

6 MS. BURRIS: Thank you Judge Malphrus.

7 MS. HAMILTON: Just one quick question Your Honor.

8 REDIRECT EXAMINATION

9 BY MS. HAMILTON:

10 Q You did get that information from the warrants and from
11 the booking, but you verbally asked the defendant to verify his
12 address, correct?

13 A The first thing the defendant hears from me other than
14 behave yourself in court is, what is your present address.

15 Q And that is what you wrote on the form?

16 A That was -- again, you heard my testimony. I don't
17 remember that individual but that's what happens. Had he given
18 me other information that would have been put on the commitment
19 paper which was the first document that he would have received
20 from the court.

21 MS. HAMILTON: Thank you, nothing further.

22 THE COURT: Thank you, very much. You can be
23 excused.

24 THE WITNESS: Thank you.

25 THE COURT: Call your next witness.

1 MS. HAMILTON: The State calls Pete Mitchum to the
2 stand.

3 THE COURT: Somebody get him.

4 PETER MITCHUM; called as a witness, having been
5 duly sworn by The Clerk, was examined and testified
6 as follows:

7 DIRECT EXAMINATION

8 BY MS. HAMILTON:

9 Q Good afternoon. Could you please state your full name
10 for the record?

11 A Clyde Jay Mitchum, Jr.

12 Q What's your occupation?

13 A I work at the York County Sheriff's Office supervise
14 the evidence department down there.

15 Q And what are your duties on a regular basis in your
16 department?

17 A Well, I guess the evidence whole concept is to take
18 items that are taken in for evidence and to make sure they are
19 properly documented, store them until they are needed either for
20 investigative purposes or for court purposes and to maintain a
21 chain of custody on them.

22 Q And how long have you worked in the evidence
23 department?

24 A Evidence department it's been 23 years.

25 Q I am going to hand you some exhibits to have.

1 MS. HAMILTON: Beg the Court's indulgence. I will
2 try and get some of these marked.

3 (State's Exhibits 32-34, marked for
4 identification as of this date.)

5 Q I am also going to hand you what has been marked --

6 MS. HAMILTON: I am going to hand this to the
7 defense.

8 Q I am also handing you what has been marked for
9 identification purposes State's Exhibit 32 through 34. Please
10 take a look at those items too.

11 A Okay.

12 Q Do you recognize the signature of the person who logged
13 in each of these exhibits? And we go through each one, number
14 20 specifically.

15 A All these were picked up at the -- as indicated by the
16 signature -- were picked up at the Rock Hill Police Department
17 specifically the drug enforcement units area that is locked
18 inside the Rock Hill Police Department and the signature is
19 indicating that they were picked up by a former employee by the
20 Patrick Paterson.

21 Q And he's a former employee of?

22 A Of York County Sheriff's Office down in the evidence.

23 Q And are you familiar with that person's signature?

24 A Yes, ma'am. I've seen it quite a few times.

25 Q And how long had he worked with you before he moved?

1 A I think it was just a little over five years.

2 Q I think you have an evidence tag on your stomach.

3 A It's one of the exhibits. It's one missing right
4 there. Okay.

5 Q When did he log these evidence bags into the custody of
6 the York County Evidence Department?

7 A He indicated right after his signature it was October
8 the 19, 2015, at 08:30.

9 Q And are you familiar with the York County Sheriff's
10 evidence drop?

11 A I am.

12 Q Okay, and it's where you store evidence?

13 A Yes.

14 Q And is this a secured location?

15 A It is secured, yes.

16 Q And do you have any procedures for noting any issues
17 with evidence bags such as tampering or unsealed evidence bags
18 if you receive any?

19 A Yes. It's a rare occasion something comes in. For
20 instance like a drug bag. Let's see if I kind find one it will
21 be easier to show on one of these. The officer that collects
22 the evidence, is advised to put the date they collected it, the
23 date they sealed it and their initials after it. And so we look
24 for that whenever we take evidence out of the evidence drop.

25 Q And are there any notations that any of these were

1 damaged or unsealed when you received them?

2 A I don't see any noted because if it were we would have
3 some kind of note on the evidence and I don't see where anything
4 has been noted for anything like that.

5 Q Okay. And now while this evidence was with you and the
6 other people who work inside of the evidence department did
7 anyone other than you all have access to it?

8 A No, it's just the people that are employed in the
9 evidence department itself are allowed to be in there alone or
10 as a unit together, but if there is anybody ever in the evidence
11 room they never leave our sight. They never get to touch
12 anything or alter anything. We're always escorting anybody if
13 there is anybody ever in there.

14 MS. HAMILTON: Your Honor, the State would offer
15 exhibits 32, 33 and 34 which are cell phones into
16 evidence.

17 THE COURT: Any objection?

18 MS. BURRIS: No sir, Your Honor.

19 THE COURT: All right.

20 (State's Exhibits 32-34, cell phones, received in
21 evidence as of this date.)

22 Q Beg the Court's indulgence, Your Honor.

23 I will talk about cell phones just briefly. Exhibit number
24 32.

25 A Yes, ma'am.

1 Q What is that exhibit? Describe that exhibit.

2 A It was written as evidence description as two with an X
3 mark, LG Smart phones.

4 Q Who submitted the evidence? Whose name?

5 A D. Burkhart.

6 Q And on what date was that submitted?

7 A He dropped it at the Rock Hill Police Department,
8 narcotic's office on October 15, 2015 -- excuse me, it says 6:30
9 p.m.

10 Q And let's go to the next one. Well, actually could you
11 open those.

12 A I would be happy to. Okay.

13 Q And that's two cell phones, LG cell phones, is that
14 correct?

15 A That's what it looks like. Yes, it has got LG on them
16 and they look pretty similar.

17 Q Okay, let's move on to exhibit number 33. And what is
18 this one?

19 A It's labeled as LG flip phone, flip cell phone.

20 Q And who took that into evidence?

21 A D. Burkhart.

22 Q What date?

23 A On October the 15, 2015, at 6:30 p.m. is when he
24 submitted it.

25 Q Okay, and can you open that. Just show the jury.

1 (WHEREUPON, the witness holds up cell phone.)

2 Q Thank you. And last, 34. Can you open that and let us
3 know also what that description is on that item.

4 A The description simply says three cell phones.

5 Q When was that recovered?

6 A It was recovered on 3/15/15 (sic) at 11:41 am, but it
7 was deposited in the evidence drop on 10/15/15 at 6:30 p.m..

8 Q And by Danny Burkhardt?

9 A By D. Burkhardt

10 Q Okay. And if you open that and show the jury and we
11 should be done.

12 A This one says Samsung, Samsung and a Blackberry.

13 MS. HAMILTON: Thank you, please answer any
14 questions the defendant may have.

15 MS. BURRIS: I do not have any questions for this
16 witness.

17 THE COURT: Thank you, very much. You are
18 excused.

19 MS. HAMILTON: Thank you, Your Honor.

20 THE COURT: Call your next witness.

21 MS. HAMILTON: It State would call Miss Cynthia
22 Mitchum.

23 CYNTHIA MITCHUM, called as a witness, having been
24 duly sworn by the clerk, was examined and testified as
25 follows:

1 DIRECT EXAMINATION

2 BY MS. HAMILTON:

3 Q May it please the Court, Your Honor. Miss Mitchum
4 could you please state your full name for the record?

5 A It's Cythia Mitchum.

6 Q What is your occupation?

7 A I work with the York County Sheriff's Office in the
8 drug analysis laboratory.

9 Q And what does that mean that you work in the drug
10 laboratory? What in fact is the drug laboratory?

11 A In the drug laboratory we receive samples and we will
12 analyze those samples for controlled and non-controlled
13 substances and report those results back to the officers so they
14 can go forward with their cases.

15 Q And how long have you worked in that drug lab?

16 A I have been there for almost 17 years. Well 17 years.
17 It will be 18 in May, next May.

18 Q And what education and training do you have that
19 qualifies you to be able to identify legal drugs, prescription
20 drugs. Controlled substances?

21 A I have Bachelors of Science in chemistry which I
22 received from 1994 from Winthrop University and prior to working
23 with the sheriff's office I worked with the South Carolina Law
24 Division, also known as SLED, in their drug lab for seven and a
25 half years. So in February I would have been doing drug cases

1 for 25 years.

2 Q And have you ever been qualified in court as an expert
3 in drug identification and analysis?

4 A Yes.

5 Q How many times could you estimate?

6 A In excess of 250 times.

7 MS. HAMILTON: Your Honor, the State would offer
8 Miss Mitchum --

9 THE COURT: Any questions you want to ask about
10 her qualifications.

11 MS. BURRIS: No, sir Your Honor.

12 THE COURT: All right, go ahead.

13 MS. HAMILTON: Thank you, Your Honor.

14 Q Miss Mitchum, now as an expert I am going to hand you
15 what has been marked as State's Exhibit Number 20 and 22. They
16 are State's 20 through 22 and I want you to analyze, or look at
17 these and let me know if you had contact with these items
18 before?

19 A You said 20 and 22?

20 Q Twenty, 21 and 22. How did these exhibits come in to
21 your possession?

22 A I received these from Patrick Patterson.

23 Q And you picked them up personally?

24 A Yes, he delivered them to me personally.

25 Q And when you received these bags did they appear to be

1 tampered with in any way?

2 A No, I make note. What I receive first there's an inner
3 bag here. It has got a blue seal down the side and on each of
4 those I have okay and my initials and the date when I received
5 it and that is indicated that the bag was still sealed.

6 Q What it signed when you received it?

7 A Yes, I signed it and Patrick signed it also.

8 Q When the evidence was with you at the drug lab did any
9 other person have is access to it?

10 A No, I logged this into a sealed filing cabinet that I
11 have the only keys to.

12 Q Now, what was contained in each bag when you received
13 it? I want to go through each exhibit. So exhibit number 20,
14 start with that one?

15 THE COURT: Twenty-two?

16 MS. HAMILTON: Twenty, Your Honor.

17 A So you want me to go ahead and read my results?

18 Q If you can just look at the bag and let us know what
19 you believed to be in there?

20 A Okay. In here was a powder substance inside of a
21 plastic bag.

22 Q And did you analyze the substance in this bag?

23 A Yes, I did.

24 Q And what test did you run on this?

25 A I performed an instrumental test and a chemical test.

1 Q Okay, and how well regarded is this test in the
2 scientific community in terms of publication and peer reviews?

3 A It is pretty what everybody uses.

4 Q And how many times have you performed this type of
5 test?

6 A Oh, lots of times. In excess of thousands of every
7 time.

8 Q How reliable have you found this test to be in your
9 experience?

10 A Very reliable.

11 Q Are there any quality control measures associated with
12 this test that help insure there is no contamination from any
13 other drugs or prior samples of evidence that you have tested
14 before when you test?

15 A Yes, there are.

16 Q Okay. Could you explain?

17 A In with the spot test we also have reagents that we use
18 where we have a known standards such as lidocaine and
19 benzocaine, those type to do our spot tests with so we can know
20 the color transform. So when we make up the reagents I know
21 it's spotting correctly. Also on the instrument we run blanks
22 in between our samples so we know there's no carryover from one
23 sample to the other and we also run standards so we know that
24 what we're looking at comes out the same retention time and
25 everything.

1 Q Is this method consistent with what you know about
2 scientific principals and procedures?

3 A Yes, it is.

4 Q Now, exhibit number 21 and 22, did you do those same
5 exact tests on those?

6 A Yes, I did.

7 Q Okay. And I am going to go through each exhibit
8 number. State's Exhibit Number 20, what did you find this to
9 be?

10 A State's Exhibit Number 20, which is item number two in
11 the case, was determined to contain cocaine, a controlled two
12 substance weighing 3.50 grams.

13 THE COURT: Three point five what?

14 THE WITNESS: Zero grams.

15 THE COURT: Grams?

16 THE WITNESS: Yes, sir.

17 THE COURT: All right.

18 Q Exhibit number -- State's Exhibit Number 21, what did
19 you determine this to be?

20 A State's Exhibit Number 21, which is item number 12 in
21 this case, actually in this case I separated the items out. So
22 I have a 12 and 12 point one. Item 12 was a powder substance
23 and it was determined to be contain heroin weighing 14.42 grams
24 and that's a controlled one substance and then 12 point one was
25 a white powder which was determined to contain cocaine which is

1 a controlled two substance weighing certify is point .33 grams.

2 Q And the last exhibit, State's Exhibit Number 22.

3 THE COURT: I thought you just gave three
4 different -- three items, 3.5 grams of cocaine, 14.42
5 grams of heroin.

6 THE WITNESS: Correct.

7 THE COURT: And then you gave another cocaine?

8 THE WITNESS: Correct. There is two items
9 actually in this same bag.

10 THE COURT: And that's in the same bag with the
11 3.5?

12 THE WITNESS: No, it's the same bag as the heroin
13 of the 14.42 and then another cocaine weighing 0.33.

14 THE COURT: Okay.

15 THE WITNESS: When I started my analysis it
16 actually ended up being two different substances in
17 the bag.

18 THE COURT: All right. That was in all the bag
19 marked 21?

20 THE WITNESS: Correct.

21 THE COURT: All right. Got you.

22 Q State's Exhibit Number 22, what did you it find this to
23 be?

24 A State's Exhibit Number 22, which is also item number 13
25 in this case, was determined to be a crystal substance

1 determined to contain methamphetamine which is a controlled two
2 substance weighing 22.95 grams.

3 Q And did you make a written report of all of your
4 findings?

5 A Yes, I did.

6 Q Do you have that report with you? I believe it's up
7 with you State's Exhibit Number 31.

8 A It has 30.

9 Q I'm sorry, 30. Do you recognize that?

10 A Yes, I do, it has got my signature.

11 MS. HAMILTON: Let me hand this to the defense.

12 Q And does this report accurately reflect your findings
13 as to exhibit number 20 through 22, so 21 -- 20, 21 and 22?

14 A Yes, it does.

15 Q Okay.

16 MS. HAMILTON: Your Honor, I would move to admit
17 State's Exhibit Number 20, 21, and 22, and State's
18 Exhibit Number 30 into evidence.

19 THE COURT: Any objection to any of those?

20 MS. BURRIS: No, sir, Your Honor.

21 (State's Exhibits 20-22 and 30 received in evidence
22 as of this date.)

23 MS. HAMILTON: Please answer any questions the
24 defense may have.

25 REDIRECT EXAMINATION

1 BY MS. BURRIS:

2 Q Hi Mitchum.

3 A Hey, how are you?

4 Q Good, thank you.

5 Miss Mitchum you prepared this report, this laboratory
6 report?

7 A Yes.

8 Q You did. All right. And it says delivery method
9 hand-to-hand?

10 A Correct. There's two delivery methods that we have
11 that goes along with this computer program. Hand-to-hand it
12 comes straight to the lab per someone saying you would bring me
13 the evidence hand-to-hand. Then the other method we have is a
14 drug box and that is basically it looks like a mailbox that only
15 officers can put the substances in the top and I can only pull
16 the substances out of the bottom and that would be the other way
17 was the drug box.

18 Q Okay, and so on this report that has been admitted into
19 evidence --

20 A Okay.

21 Q We have involved subjects, right?

22 A Yes.

23 Q And on here we have the drug of cocaine, correct?

24 A Correct.

25 Q And we have item 12 -- so item two is cocaine, item 12

1 was heroin?

2 A Correct.

3 Q Item 12.1 was determined to be cocaine?

4 A Correct.

5 Q And item 13 was determined to be methamphetamine,
6 correct?

7 A Correct.

8 Q And where it says at the top involves subjects you have
9 Shawn Bisnauth?

10 A Correct.

11 Q Lashunda McMoore?

12 A Yes.

13 Q And suspect Antonio Vasquez?

14 A Correct.

15 Q Now, the report that was actually admitted into
16 evidence is an edited report, right?

17 A That is correct.

18 Q And it indicates that the date of report was February
19 the 22, 2016, right?

20 A Correct.

21 Q And then it says date of submission, November the 5TH,
22 2015, right?

23 A Correct.

24 Q But this is not the only report that you drafted,
25 correct?

1 A No, there is another report that has more items on it,
2 so this is a redacted report.

3 Q And you're familiar with the first report that you
4 prepared for this case, right?

5 A Yes.

6 Q And you even have a copy of it because you have a copy
7 of your case file?

8 A Yes.

9 Q And so in the listing of the evidence of the first
10 report, you have item number 1, correct?

11 A Let me get my report right quick.

12 Q Sure.

13 A Okay.

14 Q Item number 1 that's on the first report but not on the
15 second report, correct?

16 A Correct.

17 Q Or the edited report. You have item number three that
18 is on the first report that you prepared but not on the edited
19 report?

20 A Correct.

21 Q And you have item number 11 that's on the first report
22 but not on the edited report?

23 A Correct.

24 Q And you have item number 13 point --

25 MR. HOGGE: Objection. If she wants to get into

1 what's on the first report these were redacted for her
2 benefit, so she needs to put that in evidence.

3 THE COURT: I think if she wants to do it that way
4 you can come back and ask her what those were.

5 MS. BURRIS: Okay.

6 THE COURT: If she wants to do it that way she's
7 opening the door. You can ask her about them on
8 redirect.

9 MS. HAMILTON: Thank you, Your Honor.

10 Q Item 13.1 that was on the first report you prepared but
11 not on the edited report?

12 A Yes.

13 Q Item 15, that's on the first report but not on the
14 edited report?

15 A Correct.

16 Q Item number 16, that was on the first report prepared
17 but not on the edited report?

18 A Correct.

19 Q And item number 21 that was on the first report but not
20 on the edited report?

21 A Correct.

22 Q And did you actually edited this report on the same day
23 that you prepared it?

24 A I did not edit the report, no.

25 Q Okay, so who edited the report?

1 A The solicitor's office edited the report. She handed
2 it to me when I got on the stand.

3 Q So the solicitor's office edited the report and it
4 included your name or signature is that electronic?

5 A That's an electronic signature.

6 Q At the top of this report it has your signature,
7 Cynthia Mitchum, correct?

8 A It's at the bottom.

9 Q I'm sorry, it's at the bottom, Cynthia Mitchum?

10 A Correct.

11 Q Drug chemist, and your title, drug chemist?

12 A Yes.

13 Q And confidential report?

14 A Yes.

15 Q So you can not adopt this report as you being the
16 chemist who prepared this edited report?

17 A The first one I can. The second one is resemblance of
18 of the first one. Things have been taken out so it is
19 reflective of my first report. But no, this one actually right
20 here, no, I didn't prepare that but it is reflective of my first
21 report.

22 Q Yes or no, solicitor's office edited the report?

23 A Yes.

24 MS. BURRIS: Thank you Miss Mitchum.

25 MS. HAMILTON: Just briefly, Your Honor.

1 REDIRECT EXAMINATION

2 BY MS. HAMILTON:

3 Q Miss Mitchum, I am actually going to allow this to go
4 -- or try to get this into evidence.

5 MS. HAMILTON: This will be marked as State's
6 Exhibit Number 35. This is non-redacted drug report,
7 Your Honor.

8 THE COURT: Just ask her about it. Don't read it
9 to her.

10 (State's Exhibit 35, report, marked for
11 identification as of this date.)

12 Q Miss Mitchum, I do actually want to go through each
13 item listed on the report. We redacted the other one for the
14 benefit of the defense but let's go through the un-redacted
15 report.

16 A Okay.

17 Q Item number one that you found on your report, green
18 plant material. Where was that seized from?

19 A It says on Vasquez's person.

20 Q Okay. Item number two, compressed powder substance.
21 Where was that seized from?

22 A In master bedroom floor.

23 Q And what did you determine that to be?

24 A That was determined to be cocaine, controlled two
25 substance weighing 3.50 grams.

1 Q Item number three, green plant material. Where was
2 that seized from?

3 A On master bedroom floor.

4 Q And what did you determine that to be?

5 A That was determined to contain marijuana, control one
6 substance weighing 0.69 grams.

7 Q And item number 11, beige tablets. Where was that
8 seized from?

9 A That was received from item number ten, which was a
10 yellow plastic container in the master closet.

11 Q And what did you determine that to be?

12 A Item number 11, is that right?

13 Q Yes.

14 A It was determined to contain 5-MeO-MIPT, controlled one
15 substance. That is a Tryptamine which is a hallucinogenic
16 weighing 0.32.

17 Q And item number 12, a powder substance. Where was that
18 seized from?

19 A That was from inside of item ten also which was the
20 yellow plastic container in the master closet.

21 Q And we gone through that, that was determined to be
22 heroin. We've already gone through that, correct?

23 A Correct.

24 Q Item number 13, what did you determine that to be, it's
25 crystal substance it's listed as?

1 A You want to know where that was from?

2 Q Yes, where was it from?

3 A Okay, it says in master closet from item ten.

4 Q Item ten being the Tupperware container in the master
5 bedroom closet?

6 A It says yellow plastic container.

7 Q Okay. And what did you determine item 13 to be?

8 A That was methamphetamine, controlled two substance
9 weighing 22.95 grams.

10 Q And what else did you find in that?

11 A And also when I opened that evidence one of the
12 substances looked a little bit different so I analyzed it
13 separately and it was a white powder substance and determined it
14 to contain fentanyl which is a controlled two substance weighing
15 0.97 grams.

16 Q And fentanyl is that -- what is that substance?

17 A It is analgesic pain killer.

18 Q Similar to heroin?

19 A Yes, they are in the same family as a matter of fact.

20 Q Item number 15, yellow tablets. Where was that seized
21 from?

22 A Let's see -- item 15, that was under bed in bedroom
23 upstairs on the left.

24 Q Okay, and what did that contain?

25 A This one since we had other substances that were

1 controlled in it I indicated the tablets and they appeared to be
2 Clonazepam, 0.5 milligrams, controlled four substance.

3 Q And item number 16, green plant material?

4 THE COURT: Is there a street name for that?

5 THE WITNESS: Klonopin.

6 THE COURT: I thought may be. I didn't know what
7 it was called.

8 THE WITNESS: It's an anxiety medication.

9 THE COURT: Okay.

10 Q Item number 16, what did you determine that one to be?
11 Where was that seized from?

12 A Sixteen was seized from the master bedroom closet.

13 Q And what did you determine that to be?

14 A That was a green plant material determined to be
15 marijuana, controlled one substance weighing 0.5 grams.

16 Q Is that a large amount or small amount?

17 A That's a small amount.

18 Q Item number 21, green plants material. Where was that
19 seized from?

20 A Twenty-one, master bedroom closet, pants watch pocket.

21 Q What was that determined to be?

22 A It was also determined to be marijuana, controlled one
23 substance weighing 0.66 grams.

24 Q Is that small amount or large amount?

25 A That is a small amount.

1 MS. HAMILTON: Your Honor --

2 Q Oh, and this case report you stated this is the
3 unedited version?

4 A That is correct.

5 Q And this is what you signed and you put together?

6 A Correct.

7 Q And on what date did you do that?

8 A The date of the report was February 22nd of 2016.

9 MS. HAMILTON: Your Honor, the State would move to
10 admit State's Exhibit Number 30 into evidence.

11 THE COURT: All right.

12 MS. BURRIS: Without objection.

13 THE COURT: All right.

14 MS. HAMILTON: Thank you, Your Honor.

15 THE COURT: In evidence without objection.

16 (State's Exhibit 35, drug report received in
17 evidence as of this date.)

18 MS. HAMILTON: That is all from the State, Your
19 Honor at this point.

20 THE COURT: Thank you very much. You can be
21 excused.

22 So as I understand that is all the evidence the
23 State wishes to present.

24 MS. HAMILTON: Yes, Your Honor.

25 THE COURT: All right. We'll switch now to the

1 All right. Now we have everybody is here and as I
2 told you yesterday we've gotten to the point in the
3 trial where -- and you did rest yesterday afternoon
4 didn't you?

5 MS. BURRIS: Yes, sir, Your Honor.

6 THE COURT: All right. So now we are ready for
7 summation and arguments from the attorneys. These
8 will be true arguments in which they try to persuade
9 you as to what version or view you should take from
10 the fact of this case and how those facts may fit into
11 the law. The way we go about hearing from the
12 attorneys is first of all the solicitor, the
13 prosecuting attorney representing the State of South
14 Carolina will argue fully to you both on the facts and
15 on the law. And then we will switch and the
16 defendant's attorney will argue fully to you on the
17 facts and on the law. And then after that, we do
18 allow the solicitor, the prosecuting attorney to make
19 a brief reply argument. That is replying to matters
20 raised by the defense. So that's the way we go about
21 hearing from the attorneys.

22 I would ask you to give your attention now to them
23 as they summarize and argue to you. You may proceed.

24 MS. HAMILTON: Thank you, Your Honor. Good
25 morning. Okay, so we are at the close of the case and

1 I just want to stress to you all that I was told one
2 time by a former law professor that when trying a
3 criminal case you pound on the law and you pound on
4 the facts. But when you are have neither you pound on
5 this podium and you raise your voice and you confuse
6 that jury and you distract that jury. That's exactly
7 what the defense has done this entire trial. Cell
8 phones, car lengths, bank slips, shoe boxes, body cam
9 funding, the list goes on. You heard it all.
10 Distractions, nitpicking, confusion. I ask that you
11 look at the facts. You look at the law. Not the
12 distractions.

13 The defense stated that Lashunda McMoore is the
14 Kingpin in this case. She is not the Kingpin. He is
15 the Kingpin. Shawn Bisnauth is the drug Kingpin. He
16 is sitting with us in this courtroom. The defendant
17 was locked up on these charges October 16th -- October
18 15, 2015. After as you heard Mr. -- Commander Brown
19 state his girlfriend, Lashunda McMoore called and said
20 they took me car, they took my Mercedes. Now keep in
21 mind it was under his name, owned by him. They took
22 my Mercedes. He says I didn't take it. We didn't
23 take your car. Who you think took it? That car got
24 repossessed. And why, because her income source, her
25 drug dealing money was taken away. She couldn't pay

1 for that car. She's not the Kingpin. He's the money
2 source. He's the drug dealer. That car was
3 repossessed because her income source was locked up.
4 And it's his car.

5 Additionally Marvin told you that while the
6 defendant was signing over that money that he stated
7 this is under the statute for drug proceeds. He
8 didn't read him the full entire statute. He admitted
9 that. But he said this is for drug proceeds. The
10 defendant signed that and consented to forfeit that
11 over.

12 I will go over some other things. I just want to
13 talk about the law and talk about what we know is
14 true. So failure to stop for a blue light the
15 defendant is charged with. We know the defendant was
16 driving a motor vehicle, a Toyota, that was testified
17 by Sergeant Rayford Ervin on the stand. He was
18 driving that Toyota on Highway I-77. That was in
19 South Carolina. He stated it was at 160 in South
20 Carolina before they got to the North Carolina line.
21 He failed to stop for that signal. The defendant -- I
22 mean, the officer on the stand, Sergeant Ervin, did
23 state they initiated -- two officers initiated their
24 blue lights and sirens. He failed to stop for those
25 lights and sirens. Failure to stop for a blue light.

1 Guilty.

2 Now trafficking. I will go over the trafficking
3 heroin and trafficking methamphetamine. That's what
4 the defendant is actually charged with. As I stated
5 in my opening it's not what we see on TV. It not the
6 sensational, massive drug dealers loading up massive
7 trucks and taking them over borders. That's not what
8 it is. It's the mere possession. Having that in your
9 possession, a certain weight.

10 In this case, the defendant, Mr. Shawn Bisnauth,
11 was in constructive possession of ten grams or more on
12 of methamphetamine and 14 grams or more of heroin.
13 Constructive possession occurs when a person charged
14 with the possession, charged with possession, has
15 dominion or control over either the drugs or the
16 premises in which those drugs were found.

17 Let's go over how we know he had control over that
18 premises. He had told two different people. He told
19 the bond court judge who is neutral. He has no
20 interest in this case whatsoever. He doesn't know the
21 defendant. No interest. Doesn't know any past about
22 him. He was told and admitted on the stand that he
23 was told and under oath that the defendant lived at
24 Sandpiper Drive.

25 Additionally, Marvin Brown stated on the stand he

1 heard when he was he booked in that he gave the
2 officer the address of Sandpiper drive. The
3 defendant's own words that he lived at this address.
4 Additionally, pill bottles were found at this
5 residence. Pill bottles of Metformin. This is a
6 diabetic drug that has to be taken daily. Sometimes
7 two times daily. As you saw on the pill bottles. You
8 will have that in evidence to look at. Who keeps
9 those pills at a house that they don't live at on a
10 regular basis. You don't do that. He lived there.
11 This was his house and he had control of the
12 possessions in this home. He is the Kingpin.

13 Now, you heard the testimony from the forensic
14 chemist as to the other element. I just went over the
15 possession aspect of it. Now the weight. You heard
16 from the chemist on the stand, Miss Cynthia Mitchum,
17 that the defendant had in his closet what amounted to
18 22.95 grams of methamphetamine and 14.42 grams of
19 heroin. As the State we are required to prove the
20 weight of these drugs and we put Miss Mitchum on the
21 stand to educate you all as to the weight and what the
22 substances were. And she testified to that. That
23 element is met. The defendant had that trafficking
24 amount in his possession.

25 As I stated before you don't have to prove as to

1 the methamphetamine and as to the heroin. We do not
2 have to prove his intent to distribute it even though
3 we believe that was his intent. He merely has to
4 possess it.

5 You will hear -- or you did actually hear from
6 Officer Ervin while being questioned by the defense
7 they had reason to believe, or they did state that he
8 was the target. The defendant, Shawn Bisnauth, was
9 the target of their investigation not Lashunda McMoore
10 and that they had knowledge that he was going to
11 Charlotte, North Carolina and this was being
12 questioned by the defense. That they had knowledge he
13 went to North Carolina to sell drugs. He said that on
14 the stand when being questioned by the defense. They
15 asked him and he said he had knowledge of that. He is
16 the target. He is the Kingpin.

17 Next the defendant is charged with possession with
18 intent to distribute cocaine. Now, there are three
19 basic requirements that I went over in my opening.
20 The defendant was in knowing constructive possession
21 which I have gone over. This was his home. He stated
22 it was his home. We believe he knew these drugs were
23 in his home. Of cocaine, Cynthia Mitchum did testify
24 that the defendant had cocaine in his bedroom in his
25 home and it measured out to be 3.83 grams. Under the

1 law you can infer an intention of the defendant, Mr.
2 Shawn Bisnauth, to distribute any cocaine that is over
3 one gram. As Danny Burkhardt, Officer Burkhardt, did
4 state on the stand that's three times the inference
5 level in this case, 3.83. You can also take into
6 account in taking into account this charge of evidence
7 of distribution, there is packaging material
8 everywhere; heat sealing machines and as the officer
9 stated those machines are for the purpose of
10 concealing smell of drugs, large amount of drugs for
11 distribution. They were empty bags next to those heat
12 ceiling machines that you can look at. When you are
13 back in that jury room and I ask that you do look at
14 it and you can see white residue within those bags
15 that have been emptied out.

16 You also heard from Commander Brown and Officer
17 Burkhardt that this is not user level. This is dealer
18 level. This is not the amount of drugs that a user
19 would have in his possession to take a hit from. This
20 is substantial amount of drugs. A substantial amount
21 of money within this home. The truth is the defendant
22 only had this large amount of cocaine in his bedroom
23 closet because he intended to distribute it. It was
24 his money maker. It was his business. The defendant
25 had empty scales -- scale boxes in his home. That is

1 also evidence of distribution. He keeps those on his
2 person when he is out distributing those drugs.

3 This is a simple case ladies and gentlemen.
4 Please do not be distracted by the pounding, by the
5 raising of the voice, by these things that mean
6 nothing. I want you to pay attention to the facts of
7 the case and we believe those facts point to the fact
8 that the defendant is guilty of trafficking heroin,
9 trafficking methamphetamine, failure to stop for a
10 blue light and possession with intent to distribute
11 cocaine.

12 Now, we have to prove this beyond a reasonable
13 doubt, that is not one hundred percent certainty, at
14 all. Proof beyond a reasonable doubt is proof that
15 leads you firmly convinced of the defendant's guilt.
16 And last, I want to talk to you briefly about how the
17 defense is going to say we're not giving you the whole
18 picture. That's not the case and I will go over why
19 that's not the case. We have, and we have done what
20 we can to show you the full picture in this case. The
21 defense kept mentioning this agreement between us and
22 the co-defendant girlfriend, Lashunda McMoore. She
23 kept citing bits and pieces of this transcript.
24 Cherry-picking things that she wanted to benefit her
25 client. You don't have that full picture. She is

1 taking things out of context. I would love to show
2 you the whole picture but I am very restricted as to
3 what I can show you. I'm not allowed to show you
4 certain things. She mentioned the cell phones. I
5 made an effort to put those cell phones into evidence
6 because I want you to see what we had access to. What
7 we could see and what we could not see and you will
8 see that. We are not trying to hide anything from
9 you. We are trying to give you the full picture.
10 Also she mentioned documents that were redacted. They
11 were redacted for the benefit of her client. He was
12 not charged with those crimes. We can't bring in
13 evidence of drugs that he is not charged with. It's
14 not to his benefit, so we took those drugs out so you
15 did not know about these drugs that he was not on
16 trial for. But let's talk about these drugs now that
17 she wants to talk about them.

18 The defendant had heroin in his possession that
19 was laced with fentanyl. And I don't know if you all
20 have heard about fentanyl lately, but that is very,
21 very deadly drug. Highly concentrated narcotic. He
22 had that in his possession. He wasn't charged with
23 that because we didn't know about it until we got the
24 drug report back. Additionally some extra pills in
25 the home he didn't get charged with, so we didn't

1 bring it up. And we did that for his benefit.

2 We are not trying to hide things from you but we
3 are limited as to what we can show you under the law
4 and the court procedures. As a jury I told you you
5 have that important role as factfinders. Piece
6 together everything you've heard throughout this trial
7 and you come to a conclusion once you get in that jury
8 room and you deliberate. And I don't want you think
9 your deliberation, your looking at the evidence is any
10 hesitation to act at all. That is your job and I ask
11 that you do that job. But I feel confident that --
12 during this trial this was a search for the truth and
13 I am confident that at the end you will find the the
14 truth that the defendant is guilty of these charges.
15 I ask that you go to that deliberation room and I
16 trust that you will duly perform your role in this
17 judicial process and find Shawn Bisnauth, the Kingpin
18 of this drug distribution enterprise, guilty of
19 possession with intent to distribute cocaine,
20 trafficking methamphetamine, trafficking heroin that
21 in fact was laced with fentanyl and failure to stop
22 for a blue light.

23 Thank you ladies and gentlemen.

24 MS. BURRIS: Thank you, Your Honor please the
25 Court Your Honor.

1 THE COURT: You may proceed.

2 MS. BURRIS: Thank you. My colleagues, members of
3 the jury. We have done what we can. We can't show
4 you everything, we can't present everything to you, is
5 what you just heard Miss Hamilton argue. I'm not
6 allowed to show you everything.

7 Members of the jury, as I was going through and I
8 was preparing for this case I felt like I was somewhat
9 arm wrestling with the State to try to get them to
10 show you the whole picture of what happened on October
11 the 15, 2015. I felt I was arm wrestling. Let's show
12 them everything. Let's present everything because you
13 deserve, and let's not confuse the issues because what
14 we have is an allegation and then you have evidence
15 and then you have the facts. And you are judges of
16 the facts and you deserve the evidence. Let's not
17 confuse the issues.

18 The judge will instruct you on the law. You are
19 judges of the facts and you must hold the State
20 accountable for presenting evidence to you to prove
21 beyond a reasonable doubt that Mr. Bisnauth is guilty
22 of trafficking meth, trafficking heroin, possession
23 with intent to distribute cocaine, and failure to stop
24 for a blue light. They must prove that to you. And
25 you heard their case and you heard their witnesses.

1 And you heard the testimony of the police officers.
2 That's all we have. That's the best we can do. We
3 have done what we can is what they tell you. You
4 know, as Miss Hamilton was speaking I thought about,
5 you know, what if I go to McDonalds and I order a
6 burger and they give me two pieces of bread and they
7 leave out the beef and I order a cheeseburger and they
8 leave the cheese out and lettuce and tomatoes and I
9 have two pieces of bread and they tell me that's all
10 we can do. We are missing something. You don't have
11 the evidence. You do not have the beef. You do not
12 have what they want to tell you we've done all what we
13 can and they have and it's not enough to meet the
14 burden of proof for the State.

15 Now, I am a former prosecutor and I prosecuted --
16 I was a drug prosecutor and I enjoyed it simply
17 because I understood the letter of the law. The black
18 and white letter of the law. And I also understood
19 there's an investigation process that takes place and
20 there is evidence and so often times either when I'm
21 at the middle school and high schools dealing with
22 children or talking to my daughters we talk about my
23 legal career. I was very fortunate that the Honorable
24 Tommy Pope offered me a job out of college and we talk
25 about money, or they asked me, Miss Burris, tell me a

1 little bit about the prosecution side and tell me
2 about the defense side. And I said when I was a
3 prosecutor I enjoyed it because I got to talk about
4 the law, as Miss Hamilton told you, and then the
5 investigatory process. What evidence is there to
6 prove each element of the law and search for the truth
7 because that's what's important. That we get to the
8 bottom and search for the truth of what happened on
9 October the 15, 2015.

10 Now, the State wants you -- wants to present you
11 with what I call a spaghetti noodle theory. I'm going
12 to tell you I have this, I have the diabetes
13 medication, I have this, I have this, I have this.
14 Spaghetti noodles. We talked about the spaghetti
15 noodle theory. When you throw spaghetti noodles up
16 against the wall to see what little spaghetti noodle
17 would stick. The spaghetti noodle theory. And
18 they're now telling you that's all we have.

19 Let's talk about the evidence. Do not confuse the
20 issues. Now, let me address one thing before I move
21 on. Miss Hamilton indicated that Rayford Ervin new
22 Shawn Bisnauth was going to take drugs or something to
23 Charlotte. Let's think about this. Let's think about
24 this. There was some testimony from, I believe it was
25 Marvin Brown, that he was conducting surveillance of

1 Mr. Bisnauth on October the 15, 2015. You're
2 conducting surveillance so that means if you know and
3 you believe that he had drugs on him why not go -- you
4 have the search warrant and you had it days before.
5 Why not execute the search warrant. Go in the house.
6 That's the the prime time. Why not stop him when he
7 left the house. You think he has drugs on on him,
8 right. He even stopped at gas station says Marvin
9 Brown as he told you. And if he stopped at the gas
10 station why not move on him then. Why not execute the
11 search warrant then. You believe that he has drugs in
12 the car, right. But no, what Rayford Ervin told you
13 is he waited until Shawn Bisnauth got on I-77.

14 Members of jury do not blind sided. Does that
15 even make common sense. Nineteen years of experience
16 as a police officer in drug enforcement unit. Marvin
17 Brown a total of 41, 19 in drug enforcement unit and
18 you really think they are actually going to wait for
19 Shawn Bisnauth get on I-77 at 8:30 in the morning.
20 Does that make common sense. Wait until he get into
21 congested traffic. Oh, and he dusted me. Oh, he
22 dusted you on I-77. Rayford Ervin said so many
23 different things. He said, practically it was
24 congested. Then it was very congested. But then we
25 begin to get into well, how far was Shawn Bisnauth

1 ahead of you. Oh, he was two car lengths. Okay, well
2 who was directly in front of you? Oh, Lashunda
3 McMoore. Okay, so the police officer's car, Lashunda
4 McMoore's car, another car, and then Mr. Bisnauth's
5 car. Did Mr. Bisnauth even know that this officer was
6 signaling him to pull over because that's what you
7 must find in order to find him guilty of failure to
8 stop for a blue light. Do you really think he is
9 actually going through traffic 100 miles per hour.
10 One hundred, I-77 at eight thirty in the morning.
11 Really. Does that make sense. Did he even know that
12 the police was behind him because as Rayford Ervin
13 according to his testimony he was never even behind
14 Mr. Bisnauth. He never got behind him. But he was
15 behind Lashunda McMoore. Think about that. Does that
16 make sense. If you know he is going to do something,
17 you've been conducting surveillance, and Marvin Brown
18 said so many different things in conducting
19 surveillance. But when I began to ask the questions
20 about the York County Multi-jurisdiction policy and
21 manual, you said you conducted surveillance. One
22 point he conducted surveillance from morning until the
23 night time. That's what he said. The whole time. So
24 I knew he was there. But then he backed off of it a
25 little bit because he said Shawn Bisnauth left the

1 house but he didn't come back. Oh, why, because he
2 was going home. So we begin to ask more questions.
3 So, did you conduct surveillance on Friday, Saturday,
4 Sunday, Monday, and then Marvin Brown backed off of
5 that a little because he could not remember what he
6 had actually written in that case file summary. So
7 then what did he say. He said on Friday I conducted
8 surveillance and then he takes us to Wednesday. So
9 then he has Saturday, Sunday, Monday, Tuesday.
10 Members of the jury don't be confused by all of this.

11 Now, as we were going throughout this trial the
12 State was able to show you bits and pieces of the
13 spaghetti noodles. They showed you the pill bottle,
14 but then I had to even elicit testimony and I say now
15 on the pill bottle what address does it have on it;

16 Tributary Drive, Rock Hill, South Carolina. Okay.
17 Let's zoom in on it, Tributary Drive, his home. What
18 else do you have. Oh, I did an investigation. Did
19 you run a ten-year driving record? I did. It said
20 new registration, Tributary Drive. His home
21 address. Did you look at Shawn Bisnauth's driver's
22 license. Yeah. What did it say? Tributary
23 Drive. His home address. His home address. Then you
24 heard from Danny Burkhardt, Rayford Ervin and Marvin
25 Brown and these were your witnesses. Testimony and

1 evidence. And often as I was asking questions to the
2 witness, I don't remember. I can't recall. It's been
3 two years. It's been two years. I don't remember.
4 Marvin Brown said I had a lot going on. A lot going
5 on. He is asking you to excuse me for not remembering
6 this case. Excuse me for not being able to tell you
7 anything. Excuse me for not being able to give you
8 any evidence. But Mr. Bisnauth is charged with
9 trafficking meth, trafficking heroin, possession with
10 intent to distribute cocaine and failure to stop for a
11 blue light. But they're telling you, excuse me for
12 not giving you any evidence. Excuse me for not
13 remembering. This is serious. This is serious.

14 On Tuesday when I stood before you I told you that
15 there was more to the story than what was initially
16 presented to you. I told you that as this case
17 unfolds you were going to find out more. You are
18 going to find out more.

19 As I was preparing for this trial my brain was
20 bouncing from State to defense, State to defense,
21 State to defense. Gee, I want you to see it all. I'm
22 not trying to hide anything. You deserve to know the
23 truth. You deserve to see the evidence. You deserve
24 to see the beef. You need to know. Do not take two
25 pieces of bread and convict this young man of such

1 serious charges because you wouldn't like it if you
2 went to any restaurant and they gave you two pieces of
3 bread and you gave them your money, and you drove off.
4 It wouldn't feel good.

5 There's more to the picture than that which meets
6 the eye. This case about a drug dealer name Lashunda
7 Moore. This young lady, she's playing the game in the
8 street. She's playing the game in the street. She
9 keep people like Antonio Vasquez around her and Neco
10 Tucker around her and she used Mr. Bisnauth to help
11 her with her image that she had to create. You are
12 going to see the photo. She enjoyed the night life.
13 And you will see in the middle of that photo someone
14 who she calls her brother, Antonio Vasquez. They are
15 all from Virginia and who knows how long Antonio
16 Vasquez has actually been here. But we do know that
17 he was staying at Sandpiper Drive because the
18 officer told you that. It looked like he spent the
19 night there. What happens when someone who the police
20 officer is not familiar with they're able to come down
21 here and they camouflage, and guess what, no one knows
22 them. No one knows them. Not familiar with who Neco
23 Tucker and Antonio Vasquez is. They're from Virginia.
24 But guess what, so is Lashunda McMoore and she brought
25 them down here. And another thing, how do we know

1 that the person who signed the lease agreement on
2 Sandpiper Drive is not Antonio Vasquez and Lashunda
3 McMoore. Did the State show you that? Did she show
4 you a lease agreement? Who was paying the bills at

5 ? Somebody had to be paying the bills but yet
6 they want you to believe that Mr. Bisnauth lived at
7 that address, but they didn't show you a lease
8 agreement. They didn't show you who was paying the
9 bills. Could that have been found out, absolutely.

10 It's not hard. Law enforcement they can do the
11 investigation. They can get subpoenas. They can find
12 out information. If they wanted to. These men, Neco
13 Tucker and Antonio Vasquez they came down here from
14 Virginia. They can hide under the coattails,
15 shirttails of Lashunda McMoore. They are all doing
16 the same thing. They're all running in the streets.
17 They are all doing the same thing. They are all drug
18 dealing. They can come here live in this house. Stay
19 in this house. Antonio Vasquez we know he was there.

20 In fact, let's talk about this. I asked a police
21 officer, they kind of went back and forth. Who is the
22 agent on this case? Danny Burkhardt said Marvin Brown
23 was the agent. Marvin Brown said Danny Burkhardt was
24 the agent. No one wanted to accept ownership for this
25 investigation. But they want you to find Mr. Bisnauth

1 guilty beyond a reasonable doubt of this serious
2 trafficking meth, trafficking heroin, PWID cocaine,
3 but nobody really want to take full responsibility for
4 the investigation.

5 I asked Mr. Danny Burkhardt, I said do you even know
6 the relationship between Neco Tucker, who we know is
7 in the car with Lashunda McMoore Antonio Vasquez and
8 the relationship. Antonio Vasquez, Lashunda McMoore
9 she calls him her brother. But a lot of times we can
10 say brother and that doesn't mean biological brother.
11 That could be her guy. That could be her friend. And
12 then on the case file summary in which Marvin Brown
13 with his 41 years of experience, Rayford Ervin with
14 his 19 years of experience and Mr. Burkhardt with his
15 six years of experience that's almost 60 years of law
16 enforcement. I said, who is spoke with Antonio
17 Vasquez. But as you recall every time I asked they
18 were in another room taking picture or then I was only
19 responsible to taking pictures. Maybe another officer
20 spoke with him. But what I do know is on that case
21 report summary when I asked that officer what address
22 did Antonio Vasquez have down and it says
23 Sandpiper Drive, which is the address in which the
24 drugs and the Tupperware was found. Well, who wrote
25 that on there and each one, another officer, another

1 officer. They told you drug enforcement unit Marvin
2 Brown, Rayford Ervin, there were about six officers
3 involved in this but they can't tell you would wrote
4 down Sandpiper Drive. And who really spoke to
5 Antonio Vasquez. How do we know Antonio Vasquez did
6 not give them that address. Did you actually ask
7 Antonio Vasquez for his identification. You secured
8 the residence. You're doing an investigation.
9 Somebody opens the door or comes to the door. Looks
10 like he been sleeping there. Somebody is in the
11 vehicle with this young lady who became the subject or
12 suspects of investigation and you don't take time to
13 get their identification. Sit down and interview
14 them.

15 I asked Marvin Brown, Marvin Brown said that the
16 drug enforcement unit is one of the longest running
17 drug enforcement units in the State of South Carolina
18 but in the same breath he also told you there was some
19 money issues. And we will get there later.

20 Danny Burkhardt, we began to ask because at one
21 point you know Danny Burkhardt tells you he is the
22 designated case agent for this case, meaning that he
23 sat in here the whole time because he has six years
24 experience. He sat in here the whole time and
25 listened to the testimony from all the other officers.

1 Members of the jury don't be confused. It's strategy.
2 He wasn't the case agent on October 15, 2015. Marvin
3 had to admit that his name was actually written on the
4 report but then he wanted to back away, oh, no, no,
5 no, I wasn't case agent, I was co-case agent. And
6 then he began to say something about he was
7 supervising and said there's a difference. And then
8 Danny Burkhardt sat in here and listened to the
9 testimony from all the other officers so he knows what
10 to say. He knows. But then I began to ask
11 specifically about October 15, 2015. I began to ask
12 him about the cell phones. They said Danny Burkhardt
13 was responsible for taking all the photos. And so
14 let's go back to the cell phones. I began to ask him
15 about the cell phones. Let's talk about the closets.
16 Let's talk about the lay out of the house. Not one of
17 these police officers could tell you about the lay out
18 of the house. If you go into a house and you are
19 doing an investigation that big would you actually not
20 remember the lay out of the house. The closets.
21 What's found where. Master bedroom closet. Closet in
22 the living room. One the first things you want to do
23 is you want to capture the inside of the bedroom. And
24 Marvin Brown sat here and told you I began to ask him,
25 I said was there a bed in there? Was there a

1 mattress? First he said a bed. And then when I began
2 to ask him about the mattress box he said mattress,
3 air mattress, the same thing. No, its not. There's a
4 difference, air mattress and a bed. There's a
5 difference. But if Danny Burkhardt was responsible for
6 taking 40, 50 pictures why would he not have captured
7 the full picture of that master bedroom. I submit to
8 you members of the jury because he did not want you to
9 see everything. Why not? Are we even certain that
10 those pills were even found in the master bedroom
11 closet or the bathroom. Why not? Why not capture a
12 full picture of the bathroom so we see exactly. No
13 what do they show you, the medicine bottles. We don't
14 even know if the medicine bottles were upstairs in the
15 bathroom. Why, because these officers with over forty
16 something years experience did not think it was
17 important to show you the full picture. Did not think
18 it was important. I began to ask Mr. Burkhardt about
19 the cell phones, and I said on the evidence it says
20 Shawn Bisnauth. It didn't say Lashunda McMoore. It
21 says Shawn Bisnauth. And I said it said that the cell
22 phones that were actually located in this closet or
23 the living room closet -- at one point he said we
24 might not even recovered those. I said you mentioned
25 the cell phones were recovered out of the purse. Out

1 of a purse. So are you saying today that Shawn
2 Bisnauth carries a purse. Is that what you're saying.
3 Oh, well that's what he goes in to his song of
4 possibilities. And so I begin to asked him. Well, it
5 could have been anybody's, the cell phones. I began
6 to ask him about the drugs and the Tupperware. It
7 could have been anybody's. It's is possibility. It's
8 a possibility. Member of the jury, possibility is not
9 beyond a reasonable doubt. It's a possibility. I
10 asked about Antonio Vasquez. It's a possibility. I
11 asked him about Neco Tucker. It's a possibility.
12 Yeah, Lashunda McMoore, is a possibility. That is not
13 beyond a reasonable doubt. That is spaghetti noodle
14 theory. It's possible.

15 Lashunda McMoore was close enough to Antonio
16 Vasquez and we know that she lived there. She had a
17 key to the house. She went to the house and she
18 opened the door or she was going to open the door
19 before the officer took the key from her. But Antonio
20 Vasquez was there. And let's think about the details
21 of this, who would was charged with marijuana?
22 Lashunda McMoore was charged with marijuana. And
23 where was the marijuana found? In the master bedroom.
24 All over the master bedroom. So we can place Lashunda
25 McMoore and Antonio Vasquez in the master bedroom. We

1 know they've been there. Antonio Vasquez actually had
2 marijuana in his pocket. And the officer testified
3 and he told you that it smelled like marijuana in the
4 house. So we know those two were there and we know
5 they were in the master bedroom. Antonio Vasquez
6 knows enough -- they know enough about each other to
7 be living together; Antonio Vasquez and Lashunda
8 McMoore, for him to be spending the night at her home.

9 I began to ask the officer isn't it true -- I
10 asked him about the York County Multi-jurisdiction
11 policy and manual. I'm talking talked about the
12 surveillance notes. Asked Mr. Burkhart who testified
13 last, isn't it important when you're conducting a
14 surveillance to document your surveillance so we know
15 what happened on that day. Isn't it important that
16 when you're sitting in a secured home to interview
17 everyone. Fill that information out so that two years
18 later they're not expecting you to convict Mr.
19 Bisnauth, oh, I can't remember. It's been two years
20 and it's possibility. You can not convict someone on
21 those answers and the lack of evidence that we have
22 hear. You can not. What would Lashunda McMoore do
23 to protect her brother, Antonio Vasquez. They knew
24 that much but they couldn't remember who talked to
25 them. They knew that much, but they didn't know who

1 sat Neco Tucker and Antonio Vasquez down. But the
2 truth of the matter is that Marvin Brown, Danny
3 Burkhart who says he came after the fact but yet he is
4 the designated case agent, they don't remember much of
5 anything. They don't remember much of anything.
6 Because every time I began to ask they were in another
7 room, all of them. They were in another room doing
8 something else. And when the officer went up to
9 Sandpiper Drive, they didn't know that Antonio Vasquez
10 was there either. Did you ever see any additional --
11 didn't see any additional cars there. Why? Because
12 Lashunda McMoore is driving around her brother.
13 That's why. You didn't know that he was in that
14 house. How far will Lashunda McMoore go to protect
15 her brother? So far that when I began to ask the
16 officers about Lashunda McMoore and her coming in here
17 and under oath having an agreement with a assistant
18 solicitor that she would testify on their behalf and
19 them not being able to produce her. Them not being
20 able to have her come here to tell you exactly what
21 took place on October the 15th.

22 I played a little cat and mouse with the officers.
23 Where you here, were you not here. Well, finally they
24 said we were here originally for trial. Now Danny
25 Burkhart can tell you that she was under oath and

1 testified twice but then he told you he was gone
2 within two minutes. But you know that much that she
3 testified twice. But they said they share everything
4 with you. But someone they had a plea agreement with
5 to come and testify on behalf of the state they did
6 not have her testify to tell you what happened on that
7 day.

8 Members of the jury, that's evidence. That's
9 evidence. Don't confuse the issue. If you think that
10 what Lashunda McMoore was going to say to you and
11 present to you even if it was half of the beef don't
12 you think they would have brought that masterful
13 mouthpiece in here. She's a very important part of
14 the case. She became the subject of their
15 investigation. Why not produce her. They're trying
16 to make you think oh, we can't really tell you about
17 that. They have a right. They have the burden of
18 proof. They're the ones that present the witnesses
19 and the officers. They have the burden of proof to
20 present any witness, any evidence to prove beyond a
21 reasonable doubt every element of what Mr. Bisnauth is
22 charged with. But she is not here is she? Ask
23 yourself why not.

24 Now, and when Marvin Brown was testifying even
25 though the State could not present Lashunda McMoore to

1 see what she had to say, she left that part out.
2 Marvin Brown. You heard Marvin Brown testifying. He
3 kept saying that's what Lashunda McMoore said. That's
4 what Lashunda McMoore said. Well, Lashunda McMoore
5 said a lot. Are we going to adopt some of the things
6 that Lashunda McMoore said and not adopt the others.
7 Are we going to adopt the fact that Lashunda McMoore
8 said she doesn't actually live there but she lived in
9 Charlotte. We are going to believe that. That's what
10 we are going to give you. We saw Lashunda McMoore's
11 purse, even though they said it was Shawn Bisnauth in
12 their investigation. We saw Lashunda McMoore's purse
13 and a wig. I'm going to believe she actually lived
14 this Charlotte. Only thing Marvin Brown could tell
15 you, that's what Lashunda McMoore said. She said a
16 lot of things but they could not bring her here to
17 tell you the real truth.

18 Now, Marvin Brown talked about the yellow
19 Tupperware, and if you notice -- excuse me --
20 throughout I wasn't asking him a lot about the weight
21 of the drugs. I didn't ask the chemist a lot of
22 questions because the truth of the matter is that
23 yellow Tupperware does not belong to Mr. Bisnauth so I
24 don't need to ask a lot of questions about the weight
25 of the drug, whether or not it was an eight ball.

1 Because it's not his, that's why. It's not his. So I
2 began to ask Marvin Brown. Marvin Brown had the
3 audacity to tell you that somebody wiped the
4 fingerprints off of the yellow Tupperware. That's
5 what he told you. Well, Shawn Bisnauth didn't know
6 that Marvin Brown was going to Sandpiper Drive.
7 So are you telling me that Shawn Bisnauth actually
8 took time to wipe Tupperware off. You can never put
9 that Tupperware in Shawn Bisnauth's hands. You can
10 never prove knowledge based on the evidence. You can
11 never prove knowledge that Mr. Bisnauth even knew
12 about the Tupperware. I began to ask him also about
13 the big plastic bin that the yellow Tupperware was
14 sitting on. You fingerprinted the yellow Tupperware as
15 Mr. Brown told you for DNA, but you didn't find
16 anything. We fingerprinted. Were there any prints?
17 No, somebody wiped them off. How do you know that and
18 how can you in good conscious say that Shawn Bisnauth
19 ever even touched the Tupperware. That he ever even
20 knew the Tupperware even existed. You can not. You
21 can not place that Tupperware in Mr. Bisnauth's hand.

22 Now, in the Tupperware there was testimony in
23 regards to what drugs were in the Tupperware. The
24 meth which adds to the level of trafficking, which is
25 what Bisnauth is charged with. The heroin, that adds

1 to the level of trafficking, inside this yellow
2 Tupperware, which is what Mr. Bisnauth is charged
3 with. The cocaine, which adds to the level of
4 possession with intent to distribute was in this
5 yellow Tupperware, and I didn't hold back on you. In
6 regards to the drug report, that edited drug report,
7 edited by the assistant solicitor, at the top of that
8 drug report it had Lashunda McMoore and Antonio
9 Vasquez on it in addition to Shawn Bisnauth and it was
10 edited. But what did I do, I asked the police. I
11 said let's talk about everything that was found in
12 this house. I began to go through all the additional
13 seven, eight items. Yes, there was a report. I
14 drafted the first one. But I didn't do the editing of
15 the second one. But even on that, on the second
16 report you have Antonio Vasquez named at the top as a
17 suspect. And they're telling you this is -- we've
18 done all we can. They can come up here and tell you
19 that the drugs in the yellow Tupperware belonged to
20 Shawn Bisnauth, but they can't even tell you what the
21 room looked like on that day. That's sounds like
22 selected memory to me. Marvin Brown, and even the
23 assistant solicitor, was talking about digital scales.
24 And he made a comment about digital scales and usually
25 drug dealers, large drug dealers, that's what they do,

1 they deal with digital scales. Of the 40, 50 pictures
2 that were taken don't you think that it would be very
3 important to take pictures of digital scales that they
4 talked about consistently in this case. Don't you
5 think it would be important to take pictures of a box
6 that digital scales came out of. But you took
7 pictures of the box that the air mattress came out of.
8 I submit to you there was not any digital scales. But
9 they're trying to tell you things to fit this theory
10 of the case and they took pictures to try and fit
11 their theory of the case.

12 Members of the jury think about the different law
13 enforcement experience. Someone with 40 years of
14 experience don't you know that he would know what to
15 say. He knows what to say, digital scales. This is
16 not new to him.

17 Members of the jury, it's up to each one of you to
18 discern the credibility of each witnesses who took the
19 stand; Rayford Ervin, Marvin Brown, Danny Burkhardt who
20 was here the whole time. Mr. Mitchum, I didn't ask
21 him any questions, and the chemist. I began to ask the
22 officers about the first report and the drugs. Oh,
23 yeah, there were pills all over the house, and
24 marijuana is what the officer testified too. Okay.
25 Don't think the State is trying to help us out. Let's

1 put it all out there. There were pills and marijuana
2 found in different parts of the house. You really
3 think they would actually be doing something to help
4 us. Asked about whether or not the plastic baggies
5 were fingerprinted. No. They can not tell you that
6 Shawn Bisnauth touched any of the plastic bags in the
7 yellow Tupperware container. But the drugs in the
8 yellow Tupperware container is what adds up to the
9 amount or level for trafficking.

10 Let's talk about the cell phones. I began to ask
11 about the cell phones. I said isn't it true that when
12 you have like cell phones you can extract data, text
13 messages. You can extract data off of cell phones.
14 In fact your law enforcement. You can send a subpoena
15 to any provider of a cell phone and you can get any
16 information off of a cell phone

17 MR. HOGGE: Objection. That's not in evidence.

18 THE COURT: I'm going to talk about the both sides
19 have the right to get a subpoena if they want too.

20 MR. HOGGE: Yes, sir.

21 THE COURT: Both sides.

22 MS. BURRIS: Yes, sir.

23 The truth of the matter is could the State or the
24 law enforcement officers extract the data off of the
25 cell phones. Could they not have turned the cell

1 phones on to see if there were any text messages; who
2 was communicating with who to see if Mr. Bisnauth was
3 dealing in drugs, trafficking meth, heroin, cocaine.
4 Why not? You even have iPad and then you have a
5 tablet. Wouldn't you want to see exactly what is on
6 there. Was there a ledger? If you're dealing in
7 drugs that much wouldn't you want to see what's on
8 iPad and the tablet. Whose pictures are on there to
9 see who is really involved with dealing drugs, but
10 they could never show you that.

11 Now, there was some testimony about Lashunda
12 McMoore having to give up her car. She had an older
13 Mercedes. Members of the jury, if they wanted to make
14 you believe in spite of the lack of evidence that Mr.
15 Bisnauth had a lot of money, number one, he was an
16 approved for a public defender and Judge Malphrus took
17 the stand and told you you have to be below poverty
18 level. Number two, a real drug dealer, you pay cash
19 for older model vehicles. You don't get a loan. You
20 can't get a loan because you don't have anything on
21 the books. You don't have credit. But the officer
22 told you that there was a loan. A balance of \$17,000
23 and according to Lashunda McMoore the payment was \$200
24 a month. Was he may be trying to floss and show off
25 for somebody that he liked. Of course. She had an

1 image to keep up. He had support. He lived at
2 Tributary Drive. Financial support from his family.
3 He was able to go and get a loan for a car. But if he
4 is dealing in trafficking and he's dealing in weight
5 like that he is going to pay cash. He is not going to
6 have a \$17,000 balance. It was a Mercedes Benz. It
7 was almost ten years old. But he was able to put his
8 name on the books. Think about this. Think about
9 this.

10 Now, the last ditch effort, spaghetti noodles.
11 The last ditch effort, they brought Judge Malphrus in,
12 here and they begin to ask Judge Malphrus isn't it
13 true that Shawn Bisnauth told you that he lived at
14 Sandpiper Drive. And I began to ask Judge
15 Malphrus, judge, you can not testify under oath that
16 you even remember this young man; isn't that true?
17 Yeah, can't say that. Can't say I remember him.
18 Judge, isn't it true that you are not even certain
19 that Mr. Bisnauth gave you the address of
20 Sandpiper Drive versus you actually got the address
21 from the warrants which were given to you; the
22 charging documents which had that address on there.
23 The warrants that came from the law enforcement agents
24 had Sandpiper Drive. He says, yeah, I may have
25 gotten it from the warrants. And then he even said or

1 I may have actually gotten the address from the
2 detention staff. But he couldn't quite remember where
3 he got that address from, Sandpiper Drive. But
4 he could not tell you in spite of them trying to
5 elicit testimony, he could not tell that you Shawn
6 Bisnauth gave him that address. But what you could
7 tell you is I began to ask him about the bond form and
8 you remember him testifying, M.R. Brown. And I said
9 M.R. Brown asked you to deny Brown and he shook his
10 head and yes. That's what we do know is Marvin Brown
11 was in the judge's ear.

12 The State tells you at one point this is case
13 about constructive possession. Now they want to tell
14 you joint possession.

15 Members of the jury, let's not confuse the issue.
16 The bottom line is they have to prove to you beyond a
17 reasonable doubt that Mr. Bisnauth had knowledge of
18 the yellow Tupperware and he had a right to control
19 disposition of the Tupperware and the drugs that were
20 there in possession. Possession. You must have
21 knowledge and ownership of the Tupperware.

22 This is a case about a young man who was 27 years
23 old. He just didn't make the the most mature
24 decisions in his life. He was associated with the
25 wrong woman. And yes, he was at her house from time

1 to time just like I go to my parents' house. When I
2 moved back, I went to the University of South
3 Carolina. Undergrade in the Ohio State College of
4 law. I came back and I went to my parents' house. I
5 had my own home but I would go back there and you
6 can't tell me I didn't have any of my own personal
7 belongings there. I did. Photos. Some of my
8 medicines. They were there. I didn't live there, but
9 I was there, some times. Asked him about body
10 cameras, cameras in their car. He tells you that --
11 he says six agencies. I said, well, there is a law in
12 June 2015, South Carolina passed that police officers
13 must use body cameras. Don't you think that's the
14 best way to capture everything that was taking place
15 on that day. You said you conducted surveillance for
16 a week. I asked him about the cameras. I said you
17 actually put cameras on confidential informants. You
18 put body cameras on them. Why couldn't you wear body
19 camera so they could you show what was going on that
20 day and where everything was found. Well, it wasn't
21 like that he said. It was six other agencies that had
22 it that is under that whole umbrella but they didn't.
23 But he wanted to tell you in regards to the photo that
24 he took of the clothes that were in the closet he
25 wants to tell you that he knew that those clothes

1 belonged to Shawn Bisnauth. But then I began to ask
2 him, well, Mr. Brown, did you take the clothes out of
3 the closet and did you actually look at it and see if
4 it's something that he fits and he wears versus other
5 people that were there; Neco Tucker. Which by the
6 way, do we even know the size of Neco Tucker, Antonio
7 Vasquez? Nah, I just went through it real quick,
8 about a minute. No photographs. Then at one point he
9 said he thought it was a neck tie and now he's not
10 sure. One minute he went through. Didn't even take
11 anything off the rack. He just went through them and
12 made that determination that the clothes belonged to
13 Shawn Bisnauth.

14 Members of the jury, it doesn't just smell like a
15 rat. It's a rat. Asked about the Nike shoe box where
16 the drugs were found in. Didn't take a picture of
17 that either. Do you even know what size shoe he
18 wears. No.

19 When I stood before on Tuesday I told you this
20 there was more to this than what you knew. How are
21 they going to pick and choose what they present to you
22 and tell you that you must be firmly convinced beyond
23 a reasonable doubt. How can they pick and choose.
24 Selective memory. Cherry picking. All of that
25 possibility. Don't remember. It's been two years.

1 Not enough. There is something wrong with this
2 picture. I had you to think about this questions as
3 you went through trial. Who had the key to this house
4 in which the drugs were locate? Who was in this house
5 when the police arrived? What did Antonio Vasquez
6 have on his person? How much money did Lashunda
7 McMoore have on her person? Lashunda McMoore had
8 \$2,003 dollars. I began to ask the officer about the
9 \$2,003. He took a thousand dollars from her and gave
10 her one thousand and three dollars back. What is a
11 half of a drug dealer. You gave her a thousand and
12 three. How did you make that decision? No, I called
13 the assistant solicitor. How did you make that
14 decision? But you also charged Lashunda McMoore with
15 trafficking meth. You also charged Lashunda McMoore
16 with trafficking heroin. You also charged her with
17 possession with intent to distribute cocaine. But
18 then you took one thousand from her and then gave her
19 one thousand back. And initially before I showed him
20 the form, the forfeiture form, he remembers recording
21 hers but not his. And then I began to ask Mr. Brown
22 about Mr. Bisnauth and at one point he said, oh, he
23 knew that he was turning over -- oh, I'm certain it
24 was 500 and then he looked at the form and it said it
25 was 550 that he took from Mr. Bisnauth. And then he

1 said Mr. Bisnauth signed over the money saying it was
2 drug proceeds and then he kind of backed off of that
3 statement and said he didn't explain anything to him.
4 And then when I began to inquire further, oh, this is
5 not a part of this case. But you took money from him.
6 But it's not a part of this file. Isn't it true that
7 according to your policy handbook that you must take a
8 picture. You took a picture of everything else as far
9 as the evidence bags. You didn't take a picture of
10 the money that was recovered, why not? Deposit slip,
11 why not? At one point he says some else recovered it
12 and then I ask him a question on the incident report
13 it says that you recovered it. Why did you give her
14 one thousand and three back? But there was testimony
15 in regards to that. That according to the forfeiture
16 form it says that if one thousand dollars is recovered
17 it goes to the seizing agency. Who is is the seizing
18 agency, York County Mutli-jurisdictional Drug
19 Enforcement Unit. One thousand dollars. That's where
20 the first thousand dollars goes. But he can't really
21 tell you why only one thousand and gave the other
22 thousand back when she is charged with trafficking
23 also.

24 Where was she and Neco Tucker coming from and why
25 was neco Tucker in the car with Lashunda McMoore. Who

1 is Neco Tucker? Why is Lashunda not here today? If
2 they weren't a part of -- Neco Tucker and Antonio
3 Vasquez weren't a part of their investigation why
4 weren't they not here and presented as witnesses here
5 today? How do we know that Mr. Bisnauth even knew,
6 period, about the yellow Tupperware. There has to be
7 some knowledge that Mr. Bisnauth knew that the drugs
8 were in there.

9 Again, you are all judges of the facts. This
10 judge is the judge of the law. Mr. Bisnauth is
11 clothed with the presumption of innocence. He is
12 entitled to a fair trial and I am very confident. As
13 I was selecting the jury I was very careful in
14 selecting a jury. You took your hand and you held
15 your hand, you took an oath to well and truly try this
16 case and I am very confident. Very confident that you
17 will return a verdict that speaks the truth that the
18 State has not met the burden beyond a reasonable
19 doubt. Any doubt that would cause a reasonable person
20 to hesitate to act is reasonable doubt. And they can
21 not firmly convince you that Mr. Bisnauth knew
22 anything about the yellow Tupperware.

23 I thank each of you sincerely for your time and
24 attention to this matter. Thank you.

25 MR. HOGGE: May it please the Court.

1 THE COURT: Solicitor.

2 MR. HOOGE: Madam court reporter I need exhibits
3 30, 35 and 24.

4 Hey everybody. There is a method to the defense's
5 madness. That's what you got just then, her yelling
6 and hollering at you for an hour. As Miss Hamilton,
7 my colleague, just told you if you got the law on your
8 side pound on the law. If you got the facts on your
9 side pound on the fact. If you don't got neither on
10 your side you pound on this podium and you yell and
11 holler at everybody until you can confuse the hell out
12 of somebody and that is what the defense attempted to
13 do as she talked about hamburgers and spaghetti. What
14 she just did, what you just heard, is a spaghetti
15 noodle defense. You throw anything you can against
16 the wall and hope and pray that something sticks so
17 that one of you guys, well, I don't know about that.
18 She wants you to get back into that jury room and
19 think that was a mess. This trial was a mess. And
20 you would be excused for thinking that after having
21 listened to that. And I want to point out something
22 that kind of stuck in my craw during this trial.
23 Something that she talked about how we were hiding
24 things. She told you she used to be a prosecutor
25 herself and that's was about how the solicitor's

1 office redacted the drug report. She asks Cynthia
2 Mitchum when she was on the stand and we gave her
3 Court's Exhibit -- I mean State's Exhibit 30. State's
4 Exhibit 30 which listed the drugs that the defendant
5 is charged with in this case because as she knows
6 that's all we can show you. And then she asked Miss
7 Mitchum, oh wait, there was another report wasn't
8 there. Did you redact that? She stood over here and
9 she did the theatrics that's she famous for. She said
10 the solicitor's office edited that report because she
11 wants you to think that we are trying to hide
12 something from you. Here is the report. She wanted
13 you to think that we tried to hide from you Mr.
14 Vasquez's name. The original report, the one that we
15 put in first has Mr. Vasquez's name because it lists
16 everybody that was in that house and then it goes on
17 what we couldn't show you which is there is fentanyl.
18 So here's what we did. What we normally can only do
19 until she opened the door and then we got all this,
20 that you now know about. That we ordinarily couldn't
21 show you but now you know that you're talking about
22 Fentanyl laced heroin. You wouldn't have know that
23 otherwise, but we are talking Fentanyl laced heroin.
24 And you heard the news about Fentanyl, how dangerous
25 it is. How people can touch it and overdose and die.

1 This is what is at stake in this trial. You had Mr.
2 Burkhart open this bag and he said that this was found
3 in the house. This house of ill repute the defense
4 called it. We're talking about thousands and
5 thousands of bindles of Fentanyl laced heroin. That's
6 what's at stake. And she wanted you to think that
7 we're hiding something from you. But that's what we
8 got to do. That's the law. There are things we can't
9 get in to.

10 The only theory of substance that the defense
11 really had in this case is that this isn't his house
12 and that's ridiculous. He swore -- and I'm not going
13 to go through, or may be I will. I think it is right
14 here. He went through with Judge Malphrus and Judge
15 Malphrus testified that I do this every single time.
16 This is what I always do. I have them and I check and
17 make sure that it's their address because sometimes
18 when they get arrested the wrong address is on the
19 warrant. So I believe he says the second thing that
20 comes out of my mouth -- the first thing that comes
21 out of my mouth is behave yourself. The second thing
22 is where do you live? And Miss Burris told you he
23 couldn't remember. He couldn't tell you what he said.
24 He did. He testified I don't remember that guy. I
25 handle thousands of cases but I remember this is what

1 I always do and no doubt about it I verbally asked him
2 where do you live and I confirmed Sandpiper
3 Drive. And on this form that he signed it says I do
4 solemnly swear that the account by me delivered into
5 this courtroom with my application for counsel does
6 contain a true and full account, Yada, yada, yada.
7 And that's what it says. She wants you to believe
8 that this house of ill repute there's all these drug
9 kingpins and he's staying there and he doesn't know
10 anything about anything. He doesn't know anything
11 about that. That he is just cast into this drug den.
12 He's just thrown in there and he surrounded by lions,
13 but he is the Daniel of the drug den. Just thrown in
14 there amongst them and he somehow comes out unscathed.
15 Use your common sense. This is his house. This is
16 the house that he put down as his address and he sworn
17 under the penalty of perjury, he sworn that this is my
18 house. All his stuff is there. His prescribed drugs
19 are there and his illegal drugs are there. He has got
20 his BJ's card, his Wells Fargo ATM card. All of his
21 stuff is there. She asked about his ten-year driving
22 record. About on the pill bottles it has a different
23 address because as Marvin Brown told you he had been
24 sitting on this house and watching this house for a
25 good while. That he only move there for two months.

1 He didn't update his address in those two months and
2 send it on to the D.M.V. and make sure all his boxes
3 were checked. He didn't make sure that his pill
4 bottles were changed. These are like older pill
5 bottles. He didn't get filed new prescriptions. This
6 is where he was staying at and that's common sense.
7 He's not thrown into this drug den and has know idea
8 what's going on. According to Miss Burris there's
9 this kingpin that he's staying with, sleeping with,
10 and goodness, I had no idea. He is going out with
11 the nightlife with them. These nightlife photos, but
12 these are the people. These are the people you are
13 suppose to be worried about; Mr. Vasquez and Lashunda
14 McMoore. Those are the lions, but not Mr. Bisnauth
15 and it's ridiculous. It strains your common sense and
16 and it goes against what he swore too. He swore he
17 lived there. And at the end of day this is a simple
18 case. All these drugs were found in his house. He
19 lives there and all the drugs were there. They ran
20 from the police. He saw those lights. He knew the
21 lights were behind him because he swerved out into an
22 emergency lane and Miss Burris-Alcide said, well
23 officer, if it's illegal for my client to drive in the
24 emergency lane then isn't it illegal for the police to
25 drive into the emergency lane. They're in high speed

1 chase. Why didn't they stop him then and there,
2 because they had intelligence that he was selling
3 heroin up in Charlotte and they were going to watch
4 and see that. Things got congested. They tried to
5 pull him over and they couldn't and he ran and then he
6 came back and turned himself in. Consented that the
7 money that they found was the proceeds of drug money.
8 Think about it. He had \$500 in his pocket and when he
9 sworn to the Magistrate he said he hadn't had a job
10 since 2013. He hadn't had a job since 2013. Lashunda
11 McMoore, that car was -- Miss Burris-Alcide argued to
12 you and said just then that when you are a drug
13 kingpin you got no credit. You pay in cash. That car
14 was in Lashunda McMoore's name and he was paying.
15 There was something like a \$14,000 dollar loan on it
16 and he was paying it in cash. He was giving her that
17 money. And then when he got locked up the car got
18 repoed. But I thought this drug kingpin, Lashunda
19 McMoore should have been able to take care of it, but
20 she couldn't because the real kingpin is now in jail
21 and can't pay for that.

22 She talked to you about a lot. I'm not going to
23 talk about all that. Mr. Vasquez, had marijuana in
24 his pocket. Ego you know that the marijuana in the
25 bedroom was his. Since he has marijuana in his pocket

1 that any marijuana in the house has to be his. So we
2 know that he was in that bedroom. What? What? And
3 for some reason it's super important air mattress
4 versus box spring, which she yelled and hollered at
5 you about how can you know. Isn't it important.
6 There different beds. There's air mattress and
7 there's box springs. Huh. She's pounding on podium
8 and throwing whatever she can. She's grasping at
9 straws. It is common tactic. We've all heard that
10 before, grasping at straws. It comes from the idea
11 where you're floating down the river and you're so
12 desperate to keep your head above water that you will
13 grasp at any little piece of straw floating on the
14 water to keep your head above because you're
15 desperate. Because you're drowning, and that's what's
16 going on in this case. He's drowning and she'll
17 grasped at any little thing to get you guys to go back
18 there and think, well... And the police didn't do a
19 perfect job. That's true. There could always be more
20 evidence, right. They could have done this. They
21 could have done that. Sure. But at the end of the
22 day this isn't beyond all possible doubt. The judge
23 is about to tell you that. That's not the standard.
24 It is beyond a reasonable doubt. There is very few
25 things we know in this world with absolute certainty.

1 Instead what it comes down to is reasonable doubt and
2 what that is, is common sense.

3 The judge is the judge of the law. He's the best
4 qualified person for that because he's got more
5 experience then anybody in this room as to the law.
6 You all are the best people for the judge of the facts
7 because you collectively have more common sense then
8 any single person in this courtroom. You got a wealth
9 of life experience to draw upon. You don't leave your
10 common sense at the door whenever you go through it.
11 You utilize that and that's the whole idea behind the
12 you justice system. You use it every day to help
13 separate fact from fiction in your lives and it's
14 called upon here. You got to determine fact from
15 fiction is that really his house. Under the totality
16 of everything you heard about during this trial that's
17 his house. All the stuff is there. He sworn that it
18 was his house and it's in that bedroom. He's the drug
19 kingpin.

20 Before I close out and we tried to give you
21 everything. We tried to give you the full transcript.
22 We gave you the cell phones. The cell phones are
23 locked. She told you oh, you can subpoena the cell
24 phone company and get all the information. That's not
25 true. You can't do that. It's simply not true. You

1 probably heard the news that you can't crack iphones
2 or apparently the FBI somewhere has figured out how to
3 do. You just can't. It's password protected. You
4 got to have him consent to do it. We put all the cell
5 phones into evidence. They're locked. You can try.
6 I found every cord I could to see if you can charge
7 them up and look into them. But that's there. I want
8 to give you the whole picture. I want to tell you
9 more than I already have. But it's all there for you.
10 I want you to use your common sense.

11 I'll talk about two things before I shut up.
12 That's the oath that you took. Whenever you came in
13 here you sworn an oath, and that oath here in South
14 Carolina it's hundreds of years old. We've being
15 giving it out to jurors for over a hundred years and
16 that is that you will well and truly try based on the
17 facts and evidence presented and render a just
18 verdict. That's what you are suppose to do. You are
19 not suppose to hold any biasses against law
20 enforcement. Some people might not like enforcement
21 and you say I'm going to teach law enforcement a
22 lesson. I want them to do it better next time. I
23 don't like the police. I don't like the way this was
24 handled. But that's not why you're here. You're here
25 to base this on the facts and tell us well and truly,

1 not because of any political motive or any ulterior
2 motive that you have, but to base on the facts just
3 neutrally tell us what happened here. You're not to
4 wonder about what law is and say well, I heard from my
5 cousin that in these kinds of cases the law require --
6 all the law that you need to know the judge is going
7 to tell you. You're just telling us what happened.
8 Just the facts, ma'am, as Dragnet said. And then one
9 last thing and that's your verdict. That oath you
10 took is a hundred years of old. The verdict is
11 thousands of years old, that word. Verdict comes from
12 the Latin ver, which means the truth. And dict which
13 means to speak and so your verdict is you speaking the
14 truth. And I ask when you go back there -- you're
15 going to take a little break and he will tell you
16 about the law. When you finally start deliberating
17 this case that you obey your oath, that you well and
18 truly try this case, and that you do render a verdict
19 that speaks the truth because the truth is that was
20 his house. Those were his drugs. He is not the
21 Daniel of the drug pen. He's a lion.

22 Thank you.

23 THE COURT: All right. We will take a break now.
24 You've been sitting there for an over an hour now so I
25 will give you a short break before I discuss the case

1 with you. So if you would go to the jury room please.
2 Will be back with you in about five, ten minutes.
3 Something like that.

4 (WHEREUPON, the jury leaves the courtroom.)

5 (WHEREUPON, there was a brief recess.)

6 THE COURT: All right. Bring in the jury.

7 (WHEREUPON, the jury enters the courtroom.)

8 THE COURT: All right. We have the jury back with
9 us. Mr. Bisnauth is present along with his attorney.

10 (WHEREUPON, a note was handed to the judge.)

11 THE COURT: All right. Well, I don't know who
12 wrote this or whatever. You're asking me some
13 questions. I hope you haven't been deliberating. You
14 are not suppose to deliberate. I told you you are not
15 suppose to talk about the case. I don't know whether
16 this is an I note from one juror or from more one,
17 whoever it was.

18 Mr. Foreman, I have to ask you --

19 THE FOREMAN: Yes, sir.

20 THE COURT: -- then is this your note or the jurors
21 note or what?

22 THE FOREMEN: It's a question the jurors are
23 asking you sir.

24 THE COURT: Well, I tried to emphasis to you that
25 you are not to deliberate in this case until you've

1 heard everything and that includes what I'm about to
2 tell you. So, if you have been discussing the
3 evidence and discussing what it proves or doesn't
4 prove or anything like that you're not suppose to have
5 done that and you would have to stop now and start all
6 over again. I tried to emphasis that to you at the
7 start of the trial that you were not to discuss the
8 the case even amongst yourselves. I know I told you
9 that. So you have to start over again forgetting
10 about anything that you said about this case up to
11 this point in time. The only time you are to discuss
12 is when you heard everything. Nothing that you put on
13 here has anything to do with the case.

14 (WHEREUPON, the judge rips the note up.)

15 THE COURT: You are to decide this case based only
16 on the testimony and the evidence that was presented
17 from the witness stand and my instructions to you on
18 the law. Everything that was relevant under the rules
19 and under the law has been presented to you. There is
20 nothing that has been left out. Both sides have the
21 right to subpoena anybody and bring them in here and
22 the Court will do it for them. There is a method to
23 get people to come in and give testimony and evidence.
24 Both sides have access to that. Everything that they
25 wanted to present that was relevant under the rules

1 has been presented. Now it's your job to decide the
2 facts of this case under what you have seen and heard
3 presented. The question you have to decide is, based
4 on what I've seen and heard, has the State convinced
5 me beyond any reasonable doubt -- and I will tell you
6 what that means in a little while -- that Mr. Bisnauth
7 is guilty beyond a reasonable doubt. That's the only
8 thing you have to decide and you will decide that
9 based on what was presented here in Court.

10 You are the sole judges of the facts of this case.
11 If I said or done anything during the course of the
12 trial that you interpreted in any way of an opinion
13 that I may have about the facts please disregard.
14 What I intended to be is fair and impartial to both
15 sides in this case. Again, I tried to emphasis that
16 to you at the start of the trial. You are sole judge
17 of the facts of this case. My job is to make sure
18 that the parties follow the rules in presenting those
19 facts to you. Now, how do you go about doing that.

20 The charges made against Mr. Bisnauth are
21 relatively simple. First charge is -- all of these
22 relate to the same day; October 15th, 2015. First
23 charge is in point of time, failure to stop for a blue
24 light is what it says on the back of this Indictment.
25 And by the way, you have four Indictments. Four

1 separate charges against Mr. Bisnauth. Of course, he
2 said he is not guilty and that places the burden of
3 proving him guilty on the State.

4 First charge, is failure to stop for a blue light,
5 and the elements of that offense are contained on the
6 other side of the Indictment for where the name and
7 the number and so forth are and what it says is the
8 State claims, and this is what the State has to prove
9 beyond a reasonable doubt, is that Mr. Bisnauth was on
10 October 15th 2015, while driving on a road, street or
11 highway in this state, he failed to stop when signaled
12 by law enforcement vehicle by means of a siren or
13 flashing light. Those contained -- take contains all
14 the elements. That's the definition of this crime. I
15 just read it to you. The definition of the crime is
16 contained in the Indictment and the elements must be
17 established to your satisfaction by the testimony
18 beyond a reasonable doubt. If the State has convinced
19 you that he failed to stop by the light, siren beyond
20 a reasonable doubt, then the State would be entitled
21 to a verdict of not guilty. (Sic) As I said all the
22 elements are contained within that indictment.

23 Then we go the other three charges; possession
24 with intent to distribute cocaine on that same day.
25 The State claims that he did possess, and will I tell

1 you what possession means later on -- that he did
2 posses with intent to distribute, pass it on. He
3 didn't have to actually sell it. Pass it on at least
4 to somebody else. It could be a sale, but it doesn't
5 necessarily have to be a sale. Possess, with an
6 intent to pass it on, distribute it to somebody else,
7 give it to somebody else in some shape, form or
8 fashion. Cocaine, that's the charge, and I will go
9 over -- I will tell you a little bit more about that
10 charge later on also. Trafficking in cocaine and
11 trafficking in methamphetamine, and I will tell you
12 later on as far as what the law is in regard to the
13 amount of drugs involved that could be established
14 beyond a reasonable doubt to your satisfaction could
15 constitute the crime of trafficking in methamphetamine
16 and trafficking in heroin. Actually I will go ahead
17 and go into that now just so you will understand it a
18 little bit better maybe.

19 What the General Assembly has done as part of the
20 laws in this state is establish through the statutory
21 law certain amounts of drugs that in the case of
22 trafficking -- the two trafficking charges, if you are
23 convinced by the evidence, again that Mr. Bisnauth
24 possessed ten gram or more of methamphetamine then
25 that constitutes the crime of trafficking. That's the

1 way it is defined. It doesn't have anything to do
2 with whether or not he is out there selling huge
3 amounts of it on the street or wherever. All the
4 State has to prove beyond a reasonable doubt is that
5 he possessed ten grams or more of methamphetamine.
6 You heard testimony about how much was tested and so
7 forth and so on. If Mr. Bisnauth, again has been
8 proven to your satisfaction beyond a reasonable doubt,
9 that he possessed the amount that was testified to;
10 22.95 grams, that's ten grams or more. That's what
11 the definition of trafficking is. Possession of ten
12 grams or more of methamphetamine constitutes
13 trafficking under the law.

14 In regard to trafficking heroin, the law says in
15 regard to that; 14 or more grams of heroin. Again,
16 there's an exhibit in there that shows how much the
17 weight of it was by the testimony and the evidence.
18 If you believe that, if he has more in his
19 possession than 14 grams or more that constitutes
20 heroin. That's what the law is.

21 Now, in regard to the charge of possession with
22 intent to distribute cocaine, the law is that if it's
23 over one gram of cocaine, then you may infer, you may
24 infer that he possessed it with intent to distribute.
25 You don't have to find him guilty of that, if he had

1 more than one gram of cocaine, but the fact that he
2 had more than one gram of cocaine may allow you to
3 infer, conclude, that he did possess it with intent to
4 distribute. Theoretically, or actually under the law,
5 possession -- a person can possess a pound and not
6 intend to distribute it. But the law is if it's more
7 than one gram you may infer that he did have the
8 necessary intent to pass it on to somebody else. I
9 usually get to that part of instructions later but I
10 thought it best to go ahead and talk about that now.

11 Now to determine the facts in this case it's going
12 to be necessary for you to evaluate the credibility or
13 the believability of the witnesses who have testified.
14 You have to decide who and what to believe in regard
15 to the testimony in this case. That's what your job
16 is. Decide who and what to believe in regard to the
17 testimony that has been presented to you. You weigh
18 the evidence. You decide who and what to believe. I
19 will suggest you go about doing that in much the same
20 way you decide that issue in your everyday life. You
21 and I have to decide every day whether to believe what
22 someone tells us. So much a part of every day life
23 that we often times don't think about the mental
24 process we we may go through in deciding whether to
25 believe someone, but you do it every day. Whether at

1 home, on your job, on the street, wherever. When
2 someone comes up to you and makes a factual statement
3 to you, when someone says something like such and such
4 just happened, or such and such is about to happen, or
5 you should do that because, or you should do something
6 else because. When a person makes that type of
7 statement you have to decide, do I believe what that
8 person tells me. How much trust, how much faith did I
9 put in what that person tells me. As I said, I would
10 suggest you go about deciding, evaluating the
11 testimony and the evidence in this case in much the
12 same way you decide that issue in your every day life.
13 But some of the things you may want to consider, and
14 this is by no means an exhaustive list, but some of
15 things you may want to consider is such thing as; what
16 what was the manner and appearance of the witness who
17 testified. Was he or she straightforward or hesitant
18 is answering. Was the testimony of the witness
19 consistent or inconsistent. How did the witness come
20 to know the facts that he or she testified to. What
21 was his or her ability to know these facts. Is there
22 some reason a witness would want to give testimony.
23 In other words was the witness biased or prejudice in
24 some way. You certainly do not determine true
25 credibility or believability merely by counting the

1 number of witnesses who may have testified concerning
2 some particular point or fact that may be involved in
3 the trial of this case. Throughout this entire
4 process you have but one goal really and that is to
5 seek the truth regardless of its source.

6 Now under the constitution and code of laws as I
7 said, the charge -- the defendant, Mr. Bisnauth is
8 presumed innocent and that's a real presumption of
9 innocence. As much a fact in this case as anything
10 that's been testified to from that witness stand. The
11 only way to do away with that presumption of innocence
12 is for you to decide as I told you repeatedly, that
13 the State has proved him guilty beyond a reasonable
14 doubt. That presumption of innocence remains with him
15 at all times; from the moment of his arrest,
16 throughout any arraignment, throughout the trial
17 itself, until you the jury in the jury room have
18 reached a conclusion that the State has proven him
19 guilty beyond a reasonable doubt.

20 Mr. Bisnauth did not testify in this case and
21 that's perfectly, perfectly consistent with the
22 presumption of innocence and with the burden of proof
23 that I just mentioned to you. That I repeatedly
24 mentioned to you. He doesn't have to do anything.
25 The burden of proof remains with the State throughout

1 the trial, from the moment of the arrest until you the
2 jury have reached a conclusion the State has proven
3 him guilty by the facts presented here in court beyond
4 any reasonable.

5 Now I'll will mention some things that don't
6 always have application in every case but they perhaps
7 will have application in this case depending upon your
8 view of the evidence. What do we mean when we say
9 that the State has to prove someone guilty to your
10 satisfaction beyond a reasonable doubt. If after
11 considering all the evidence in this case, deciding
12 what facts have been established by the testimony and
13 the evidence to your satisfaction, putting those --
14 lining those facts up with what the State has to
15 prove, the way I defined the crimes for you. Look at
16 the Indictment. Look see what the elements of the
17 crimes are. Decide whether the facts support those
18 elements or not. If the State has convinced you by
19 that beyond a reasonable doubt then the State is
20 entitled to a verdict of not -- of guilty. If the
21 State fails to do that then of course Mr. Bisnauth is
22 entitled to a verdict of not guilty. You consider
23 everything. You weigh it. You decide what it does.
24 What it doesn't do. Whatever. You evaluate it and
25 after your full and fair evaluation of that if you

1 hesitate to convict on the basis of the facts as you
2 find them to be, then he's entitled to a verdict of
3 not guilty. That's what we mean when we say that the
4 State must prove someone guilty beyond a reasonable
5 doubt. It's not to absolutely certainty, but it is
6 such as if you have a hesitation to convict after
7 establishing what the facts really are based on the
8 testimony and the evidence then he is entitled to a
9 verdict of not guilty. That's the burden of proof on
10 the State to prove someone guilty beyond a reasonable
11 doubt.

12 Now there charges as I have said, four charges in
13 this case. I want to mention one other thing, or
14 other thing that you should know about. Lawyers and
15 judges divide the evidence into two types of evidence,
16 direct evidence and circumstantial evidence. Direct
17 evidence is the testimony of a person who has actual
18 knowledge of a fact. That is I saw something, I heard
19 something, I smelled something, I felt something,
20 based on the physical senses. That is what we call
21 direct evidence.

22 Circumstantial evidence on the other hand is proof
23 a chain of facts and circumstances indicating the
24 existence of a fact. It is evidence that establishes
25 the collateral fact in which the main fact may be

1 inferred. Circumstantial evidence is based on
2 inference and not on personal knowledge or
3 observation. The law make absolutely no distinction
4 between the weight or value to be given to either
5 direct or circumstantial evidence. Nor is a greater
6 degree of certainty required of circumstantial
7 evidence than on direct evidence. You should weigh
8 all the evidence in this case and after weighing all
9 the evidence if you not convinced of the guilt of the
10 defendant beyond a reasonable doubt then you must find
11 him not guilty. To the extent that the State relies
12 on circumstantial evidence all the circumstances must
13 be consistent and point to the fact to be proved.

14 Criminal intent is a necessary element of all the
15 crimes that are charged in this state and must be
16 proved by the State beyond a reasonable doubt.
17 Criminal intent is always a matter that must be
18 determined by you from the circumstances surrounding
19 the situation. There is no way to prove intent to a
20 mathematical certainty. There's no way medical
21 science can dissect a person's brain or look at it
22 under a microscope or whatever and determine what the
23 person had as an intent. Intent may be inferred from
24 the circumstances shown to have existed. This is how
25 a jury makes a determination of whether the required

1 intent, intent to possess or intent to keep driving
2 down the road has been established or not. Criminal
3 intent is a state of mind which operated jointly with
4 the act in the commission of a crime. It's one of the
5 things you learn first in law school when you start
6 studying about the criminal law, is it takes two
7 things; an act and intent. They must be coupled.
8 They must go together to establish the commission of a
9 crime.

10 Now there has already been some discussion with you
11 relative to actual or constructive possession. To
12 prove possession the State must prove beyond a
13 reasonable doubt that Mr. Bisnauth had both, had both
14 the power and intent to control or the deposition of
15 the drugs involved in this case. Possession may be
16 either actual or constructive. Actual possession
17 means that the drug was in the actual physical custody
18 of Mr. Bisnauth. Like I have this pen in my hand
19 that's actual possession. Constructive possession
20 means that he had dominion and control or a right to
21 exercise dominion or control of the drug. Mere
22 presence at the scene where drugs are found is not
23 enough to prove possession. The defendant's knowledge
24 and possession may be inferred when the substance is
25 found on the property under over which he has

1 controlled. This is simply an inference of fact and
2 it must be taken into account with all the other facts
3 and circumstances in this case in deciding whether the
4 State has met its burden of proof of proving
5 possession of the drugs. I will tell you two or more
6 persons may have joint possession of a drug. So mere
7 presence of a person where drugs are and the fact that
8 somebody else may be involved in possession of the
9 drugs are not enough to establish the guilt of the
10 defendant. It must be beyond that. It must show that
11 he had actual or constructive possession of the drugs,
12 as I've defined that for you.

13 As I say I already told you that possession with
14 intent to distribute means just what it says; that
15 possessed it with intent to pass it on to somebody
16 else and that must be established again, as with all
17 the other things the State must prove in this case,
18 beyond a reasonable doubt.

19 I will just mention it because it has already been
20 some mention in the arguments made to you. One or
21 more of the exhibits that was introduced has what we
22 refer to is as a redaction. That's just where
23 something has been obliterated where you can't read it
24 and all, and of course that has no bearing at all in
25 regard to whether or not the State has met its burden

1 of proof in regard to anything as far as this case is
2 concerned. If it was relevant it wouldn't have been
3 blacked out, but the fact that it's blacked out means
4 it wasn't relevant. Didn't have anything to do with
5 this case, the charges that are made in this case. So
6 you shouldn't a say, well, I wonder what that was or
7 something like that in trying to decide whether the
8 State has met its burden of proof or not. It has
9 nothing to do with the case.

10 I think I already covered this, but mere
11 association with someone else who may have some drugs
12 is not enough to establish possession or trafficking
13 as the charge is in this case. And mere presence
14 where drugs are is not enough. Mere presence is not
15 enough to establish commission or possession of the
16 drugs.

17 I am just looking at some notes to make sure I
18 told you everything I need to tell you. Of course
19 your verdict must be unanimous. All 12 of you must
20 agree on what the verdict is before you can come back
21 to this courtroom and tell us that you reached a
22 verdict in regard to this case. You have no friends
23 to reward or enemies to punish. Your job is to do
24 what you said you would do at the start of this case.
25 Decide this case on the testimony and the evidence

1 that was presented to you from this witness stand and
2 my instructions to you on the law. When you do that
3 no one will have a right to criticize your verdict
4 regardless of what that verdict may be.

5 I already said the jury must be unanimous. Mr.
6 Foreman, you will have with you these four
7 Indictments. Nothing is proved by these Indictments.
8 This is just the formal way that we require the State
9 to notify Mr. Bisnauth of the charges that are made
10 against him. But they do contain in the body of the
11 Indictments spell out exactly what it is the State
12 must prove beyond a reasonable doubt in order to be
13 entitled to a of not guilty -- excuse me, a verdict of
14 guilty and of course if the State has failed to prove
15 him guilty beyond a reasonable doubt then he is
16 entitled to a verdict of not guilty. You'll find on
17 the back of each of these Indictments printed word
18 verdict, and then below that are some blank lines and
19 a place for the foreman to sign. So I would ask under
20 my instruction to you that you would either write
21 simply the word not guilty, if the State has failed to
22 prove him guilty beyond a reasonable doubt, or on the
23 other hand, if the State has established to your
24 satisfaction his guilt beyond a reasonable doubt of
25 the charge contained in the Indictment then you would

1 writh the word guilt. Sign your name as foreman below
2 that. You will have these with you. Use it to let us
3 know what your verdict is. You will also have with
4 you the physical evidence that was introduced.

5 Now, I am going to ask that you go to the jury
6 room. Do not start the deliberations yet. I need to
7 look over my notes to make sure I told you everything
8 I need to tell you. If I have I'll send the
9 Indictments along with the physical evidence to you in
10 the jury room and then you know at that time you can
11 begin your deliberations. If I overlooked something I
12 will bring you back out before I let you start your
13 deliberations. So if you would, go to the jury room
14 please.

15 (WHEREUPON, the jury leaves the courtroom.)

16 THE COURT: All right. The jury is out. The door
17 is closed. Any exceptions to the charge from the
18 State?

19 MS. HAMILTON: Not from the State.

20 THE COURT: From the defendant?

21 MS. BURRIS: Not from the defense Your Honor.

22 THE COURT: Well good. Come and make sure we got
23 the physical evidence together with the court reporter
24 and then I will give these Indictments to you and you
25 can take them to the jury room, whoever it is.

1 (WHEREUPON, the jury begins deliberations at 11:50
2 am.)

3 (WHEREUPON, the jury reaches a verdict at 1:45
4 pm.)

5 THE COURT: Bring the jury in now.

6 (WHEREUPON, the jury enters the courtroom.)

7 THE COURT: We have the jury with us and Mr.
8 Bisnauth is present along with his attorney. All
9 right, the jury as returned a verdict guilty on all
10 four charges, anything prior to discharge of the jury?

11 MS. HAMILTON: Nothing from the State Your Honor.

12 MS. BURRIS: I would like to poll the jury.

13 THE COURT: All right. Members of the jury let me
14 tell you what that means. Under the law and procedure
15 once a jury's verdict is reported as I just reported
16 it here in the courtroom, that is guilty in regard to
17 each one of the charges that you were considering, the
18 law does provide and procedure does provide for the
19 polling of the jury. And by that that means I am
20 going to call your name and when I call your name the
21 question that I am asking you is; was the verdict as I
22 had reported it here in the courtroom, that is guilty
23 on each one of these charges, was that your verdict
24 when you last voted in the jury room and is it still
25 your verdict here in open Court. So if it was, answer

1 suspendable. No parole, that kind of thing.

2 MS. HAMILTON: All of these are not suspendable,
3 Your Honor. They are not suspendable --

4 THE COURT: Okay.

5 MS. HAMILTON: -- and they are no parole. The
6 failure to stop for a blue light is the only one that
7 --

8 THE COURT: Okay. That's what I wanted to make
9 sure of. I thought that was the case, but I wanted to
10 make sure of it. Let me get them all in a row here
11 then.

12 MS. HAMILTON: Your Honor, can I go ahead and mark
13 this as a Court exhibit as to the convictions.

14 (Court Exhibit 1, prior convictions marked for
15 identification as of this date.)

16 THE COURT: Sure.

17 MS. HAMILTON: Thank you.

18 THE COURT: All right. If you followed along with
19 what the sentence ranges are then and understand what
20 the sentence possibilities in with regard to this then
21 you'll understand why I'm imposing -- some of why I'm
22 imposing the sentence I'm imposing.

23 All right. Sentence on failing to stop is three
24 years in the penitentiary. The sentence on the
25 possession with intent to distribute cocaine, third

1 offense or more, ten years in the penitentiary.
2 Sentence on the trafficking in heroin, 25 years in the
3 penitentiary and fine of \$50,000. Sentence on the
4 trafficking meth, 25 years in the penitentiary and a
5 fine of \$200,000. All those sentences are concurrent
6 and you get credit for your jail time on each one of
7 those.

8 Good luck to you.

9 MS. BURRIS: Your Honor, is there any way we can
10 suspend the fine?

11 THE COURT: You look at the statute. I don't
12 think so. I don't think it really makes a whole lot
13 of difference to tell you the truth. Good luck to
14 you.

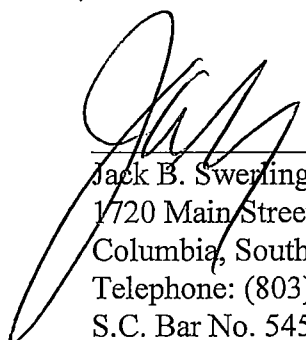
15 MS. HAMILTON: Thank you, Your Honor.

16 (END OF TRANSCRIPT)
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CERTIFICATE OF COUNSEL

Pursuant to Rule 210(g) of the South Carolina Appellate Court Rules, counsel for appellant certifies that this record on appeal contains all material proposed to be included by any of the parties and not any other material.

Counsel further certifies that this record on appeal complies with the Order of the Supreme Court of South Carolina entitled *Re: Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings*, 407 S.C. 607, 757 S.E.2d 421 (April 15, 2014).



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