

RECEIVED

Sep 22 2023

SC Court of Appeals

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Newberry County

Honorable Donald B. Hocker, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

KENDRICK TREMAIN BLACKWELL,

APPELLANT

APPELLATE CASE NO. 2022-000230

RECORD ON APPEAL

ROBERT M. DUDEK
Chief Appellate Defender

ALAN WILSON
Attorney General

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

MARK R. FARTHING
Senior Assistant Deputy Attorney General
Rembert Dennis Building
1000 Assembly Street, Room 519
Columbia, SC 29201
(803)734-3372

ATTORNEY FOR APPELLANT

ATTORNEYS FOR RESPONDENT

INDEX

INDEX	i
TRIAL TRANSCRIPT DATED JANUARY 24-26 AND FEBUARY 22-24, 2022	1
DEFENSE’S MOTION TO QUASH JURY PANEL	76
COURT’S RULING DENYING DEFENSE’S MOTION TO QUASH JURY PANEL	95
OPENING STATEMENT BY MS. BOYKIN	103
OPENING STATEMENT BY MR. LAUBSHIRE	110
TESTIMONY	
MICHAEL STRIBBLE	
Direct Examination by Mr. Daniel.....	114
Cross-Examination by Mr. Laubshire.....	169
Redirect Examination by Mr. Daniel.....	225
Recross-Examination by Mr. Laubshire	237
ROBERT DENNIS	
Direct Examination by Ms. Boykin	242
Cross-Examination by Mr. Laubshire.....	263
Redirect Examination by Ms. Boykin.....	274
Recross-Examination by Mr. Laubshire	275
IYESHIA SIMS	
Direct Examination by Mr. Daniel.....	278
Cross-Examination by Mr. Laubshire.....	286
SHANA SORRELLS	
Direct Examination by Ms. Boykin	287
Cross-Examination by Mr. Laubshire.....	307
CASEY REMBISZ	
Direct Examination by Mr. Daniel.....	312
THE STATE RESTS	313
REQUEST TO CHARGE SPOILIATION OF EVIDENCE	314
COURT’S RULING DENYING REQUEST TO CHARGE SPOILIATION OF EVIDENCE.....	323

COLLOQUY WITH DEFENDANT REGARDING RIGHTS TO TESTIFY	324
DEFENSE MOTION FOR DISMISSAL BASED ON RULE 5, SCRCP AND <u>BRADY</u>	329
DEFENSE MOTION FOR A DIRECTED VERDICT	329
COURT’S RULING DENYING DEFENSE’S MOTION TO DISMISS	333
COURT’S RULING DENYING DEFENSE’S MOTION FOR DIRECTED VERDICT	333
THE DEFENSE RESTS	334
CLOSING ARGUMENT BY MR. DANIEL	335
CLOSING ARGUMENT BY MR. LAUBSHIRE	356
COURT’S CHARGE ON THE LAW	372
VERDICT	383
SENTENCING	393
INDICTMENT	396
SENTENCE SHEET	397
CERTIFICATE OF COUNSEL	399

I N D E X O F W I T N E S S E S

(IC) - Denotes In Camera
(DW) - Denotes Defense Witness
(SW) - Denotes State's Witness

(SW) Michael Stribble

Direct examination by Mr. Daniel:	153
Cross-examination by Mr. Laubshire:	208
Redirect examination by Mr. Daniel:	264
Recross examination by Mr. Laubshire:	276

(SW) Robert Dennis

Direct examination by Ms. Boykin:	281
Cross-examination by Mr. Laubshire:	302
Redirect examination by Ms. Boykin:	313
Recross examination by Mr. Laubshire:	314

(SW) Iyeshia Sims

Direct examination by Mr. Daniel:	317
Cross-examination by Mr. Laubshire:	324

(SW) Shana Sorrells

Direct examination by Ms. Boykin:	326
Cross-examination by Mr. Laubshire:	346

1	<u>(SW) Casey Rembisz</u>	
2	Direct examination by Mr. Daniel:	351
3		
4		
5		
6		
7		
8		
9	Opening Statement by Ms. Boykin	142
10	Opening Statement by Mr. Laubshire	149
11	Closing Statement by Mr. Daniel	374
12	Closing Statement by Mr. Laubshire	395
13	Jury Charge	411
14	Verdict of the Jury	422
15	Sentencing by The Court	431
16	Certificate of Court Reporter	435
17		
18		
19		
20		
21		
22		
23		
24		
25		

E X H I B I T S

State's

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EV</u>	<u>PAGE#</u>
1	Form B6-Chain of Custody		X	194
2	SLED Internal Chain of Custody		X	194
3	SLED Drug Analysis		X	336
4	Affidavit & Power Bills		X	205
5	Photo-Street View		X	159
6	Photo-Outside of House		X	159
7	Photo-Door with Address		X	162
8	Photo-Inside Door		X	163
9	Photo-Living Room		X	163
10	Photo-Kitchen		X	163
11	Photo-Kitchen-Razors		X	163
12	Photo-Kitchen-cup and drugs		X	163
13	Photo-Kitchen-metal cup		X	163
14	Photo-Kitchen		X	163
15	Photo-Kitchen		X	163
16	Photo-Kitchen Cabinet		X	163
17	Photo-Kitchen-mug with drugs		X	163
18	Photo-Kitchen-Closeup drugs		X	163
19	Photo-Kitchen-Ammo, Scales,		X	163
20	Photo-Kitchen-Scales		X	163
21	Photo-Kitchen-Power Bill		X	205
22	Photo-Bedroom		X	163

1	<u>State's</u>				
2	<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EV</u>	<u>PAGE#</u>
3	23	Photo-Bedroom-Bag on floor		X	163
4	24	Photo-Bedroom-Champion Bag		X	163
5	25	Photo-Inside bag with drug bag		X	163
6	26	Photo-Inside bag with drug bag 2		X	163
7	27	Photo-Bedroom-Inside bag/drug bag		X	163
8	28	Photo-Bedroom-.38 Revolver	X		204
9	29	Photo-Other Bedroom		X	163
10	30	Photo-Wallet		X	163
11	31	Photo-Social Security Card		X	163
12	32	Photo-Physical Evidence-Drugs		X	190
13	33	Photo-Physical Evidence-Scales		X	188
14	34	Defendant's Card (ID)		X	164
15	35	Bail Proceeding			
16	36	Bail Proceeding			
17	37	Gun	X		204
18					
19					
20					
21					
22					
23					
24					
25					

Proceedings for January 24-26, 2022Court's

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EV</u>	<u>PAGE#</u>
1	Search Warrant	X		55
2	Chain-of-Custody	X		55
3	Lab Analysis	X		55
4	Analysis Report	X		55
5	Chain-of-Custody	X		55
6	Affidavit	X		55

Trial for February 22-24, 2022Court's

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EV</u>	<u>PAGE#</u>
1	Ruling-Pretrial-Email	X		135

1 January 24, 2022

2 THE COURT: All right, Solicitor.

3 MR. DANIEL: Your Honor, this is State versus
4 Kendrick Blackwell. Judge, this case is on this week's
5 trial docket. Mr. Blackwell has accepted our plea and is
6 tendering it, Your Honor. He is pleading guilty to three
7 charges, Your Honor. Two counts of distribution of
8 heroine and those are 2020-GS-36-0164 and 0165, both of
9 those were true billed, Your Honor. The third charge is
10 the lead charge, Your Honor, and that is trafficking in
11 methamphetamine charge. He is waiving presentment to the
12 Grand Jury. That is 2022-GS-36-0051. And, Judge, that
13 is, his charge is trafficking in methamphetamine, 28 to
14 100 grams. We are allowing Mr. Blackwell to plead guilty
15 to the lessor, 10 to 28 grams, a second offense which
16 carries 5 to 30 years, recommending a cap of 10 years.
17 And the two counts of distribution to run concurrent with
18 the trafficking sentence.

19 THE COURT: Okay. All right, very good. Madam
20 Clerk, will you swear Mr. Blackwell in, please.

21 Kendrick Blackwell, being
22 first duly sworn, testified as follows:

23 THE COURT: Okay. Mr. Laubshire, you represent
24 Kendrick Tremain Blackwell?

25 MR. LAUBSHIRE: That is correct, Your Honor.

1 THE COURT: And you have had an opportunity to
2 explain these three charges to him, his rights he is
3 giving up as a result of the plea, the maximum punishment
4 he could receive.

5 MR. LAUBSHIRE: Yes, Your Honor.

6 THE COURT: And do you believe your client has
7 understood your explanation?

8 MR. LAUBSHIRE: I believe he has.

9 THE COURT: Okay. And what I have before me, I have
10 a trafficking methamphetamine charge, 10 to 28 grams,
11 classified as a second offense; and two distribution of
12 heroine charges as classified as a first offense. How
13 does your client wish to plead to those three charges?

14 MR. LAUBSHIRE: Your Honor, he tells me he wishes to
15 plead guilty.

16 THE COURT: And as his attorney do you agree with
17 that decision?

18 MR. LAUBSHIRE: Yes, Your Honor. Based on the
19 discovery and our discussions in this case, I believe that
20 that is appropriate.

21 THE COURT: Okay. Mr. Blackwell, I am going to ask
22 you a series of questions. You pay close attention, speak
23 up loud when you respond and you can keep your mask on but
24 if I have a problem hearing you or understanding then I am
25 going to ask you to lower it. Okay. You are Kendrick

1 Tremain Blackwell, age 30?

2 MR. BLACKWELL: Yes, sir.

3 THE COURT: And how far did you go in school?

4 MR. BLACKWELL: Twelfth grade. I ain't finished but
5 I made it to the twelfth grade.

6 THE COURT: And what I have before me, two counts of
7 distribution of heroin, first offense; and a trafficking
8 methamphetamine, 10 to 28 grams, second offense. How do
9 you plead to those charges?

10 MR. BLACKWELL: I mean, I ain't, can I say something?

11 THE COURT: Do you need to talk with your lawyer. I
12 will give you a chance to talk with your lawyer.

13 MR. BLACKWELL: They say it is 28 grams --

14 THE COURT: Wait a minute, sir. Why don't, if you
15 can just, can you find a little room, just step back over
16 in there and talk with your lawyer.

17 (Whereupon, Mr. Blackwell and Mr. Laubshire talk in a
18 separate room.)

19 MR. LAUBSHIRE: Your Honor, I apologize for the
20 interruption, Mr. Blackwell didn't understand. What the
21 Court said was a range of 10 to 28. He thought you said
22 28.

23 THE COURT: Right. Okay. Again, I have three
24 charges. I have two distribution of heroin charges, first
25 offense. And then I have one charge, second offense,

1 trafficking methamphetamine. And the range of the amount
2 of drugs is 10 grams up to 28 grams. How do you plead to
3 those three charges?

4 MR. BLACKWELL: I ain't have no heroin, but I guess I
5 will plead guilty.

6 THE COURT: Wait a minute now. Lower your mask, I am
7 having a hard time. And I am going to tell you, Mr.
8 Blackwell, like I tell everybody that comes before me. If
9 there is some hesitancy about pleading guilty, I would
10 never want you to plead guilty to any criminal charge if
11 you truly believe that you are not guilty of the charge.
12 Okay. A lot of people come before me and say, well, I
13 just want to get this thing over with. I just want to get
14 rid of it. I am just going to plead guilty. And they
15 really believe that they are not guilty. So the worse
16 thing you could do is plead guilty to something when -- I
17 can get you to speak later on, not right now. The worse
18 thing you could do is to plead guilty to a criminal charge
19 where you truly believe you are not guilty of. Okay. I
20 would not want you to do that. So your comment about
21 pleading guilty, I couldn't understand you. Can you tell
22 me that again, please, what you just said.

23 MR. BLACKWELL: I never had --

24 THE COURT: Sir, are you the Dad?

25 MR. BLACKWELL'S DAD: Yes.

1 THE COURT: I know you are concerned but I can't have
2 you just --

3 MR. BLACKWELL'S DAD: I am sorry.

4 MR. BLACKWELL: I said, I never had heroin.

5 THE COURT: Okay. Well, all I know. I know very
6 little about your case. These lawyers, these good lawyers
7 know a lot about your case, I don't. So all I know is
8 what the Solicitor is telling me, that it is heroin. Now,
9 here is what I want you to do is I want you to go back in
10 that room with Mr. Laubshire; and Solicitor, will you go
11 back and maybe y'all can have a little discussion and
12 maybe resolve this concern Mr. Blackwell has.

13 MR. DANIEL: Well, Your Honor, here is the confusion,
14 Your Honor. In the body of the indictment, it is saying
15 distribution of Oxycodone but the SLED drug analysis
16 reveals it is heroin. There is an issue where the drugs
17 were marketed as Oxycodone, the SLED results come back as
18 the pills being heroin. That is what, that is the
19 confusion. Technically he is correct. In the indictment
20 it says Oxycodone but the analysis says otherwise.

21 THE COURT: Okay. So that is why the State is
22 indicating distribution of heroin because in fact it was
23 heroin based upon the SLED analysis, even though initially
24 they believed it to be Oxycodone. Okay. So do you still
25 need to talk to Mr. Laubshire about this? I will be glad

1 to give you every opportunity.

2 MR. BLACKWELL: I don't understand.

3 THE COURT: Sir, what did you say?

4 MR. BLACKWELL: You can continue.

5 THE COURT: Okay. All right. Tell me how you plead,
6 I am just going to break these down. The first one is
7 trafficking methamphetamine, 10 to 28 grams, second
8 offense. How do you plead to that charge?

9 MR. BLACKWELL: I plead guilty to it.

10 THE COURT: Are you pleading guilty to that charge
11 because in fact you are guilty?

12 MR. BLACKWELL: I --

13 THE COURT: Sir, pull down your mask. You are going
14 to need to speak up because I have got to understand you,
15 I have got to be able to hear you and this lady has got to
16 hear you. And I know you are nervous. No problem there
17 but we have got to be able to hear you. Are you pleading
18 guilty to the trafficking charge because, in fact, you are
19 guilty?

20 MR. BLACKWELL: They said I was there and I am
21 charged with it so, yes.

22 THE COURT: Do you believe you are not guilty of it?

23 MR. BLACKWELL: I said, it wasn't no handling but --

24 THE COURT: No, we are talking about the
25 methamphetamine first. I am breaking these charges down.

1 You have got a trafficking methamphetamine. They said
2 that this took place January 30th of 2020 in Newberry
3 County. Are you pleading guilty to that charge because,
4 in fact, you are guilty?

5 MR. BLACKWELL: I will plead to it. I mean, I am
6 going to plead to it.

7 THE COURT: Are you pleading to it because, in fact,
8 you are guilty of it, yes or no?

9 MR. BLACKWELL: (Inaudible.)

10 COURT REPORTER: I didn't hear him, Judge.

11 MR. BLACKWELL: Yeah.

12 THE COURT: Are you pleading guilty to the
13 trafficking charge because, in fact, you are guilty?

14 MR. BLACKWELL: Yes.

15 THE COURT: You admit that on or about January 30th
16 of 2020 in Newberry County that you did, in fact, traffic
17 with methamphetamine and the quantity was anywhere from 10
18 to 28 grams?

19 MR. BLACKWELL: (No response.)

20 THE COURT: All right. There is just too much
21 hesitancy on his part and I just don't feel comfortable.
22 And again, I am not blaming you, I am not faulting you at
23 all. But there is too much, there is just too much
24 hesitancy on your part where I feel comfortable in
25 accepting your plea because you are looking at, I don't

1 even have to follow the recommendation. The
2 recommendation is a cap of 10 years, you know, I don't
3 even have to follow that. I can give you more than 10
4 years. So this is really serious stuff and I just don't
5 feel comfortable in accepting your plea because you are
6 very hesitant in accepting responsibility. And you have
7 every right to be hesitant in accepting responsibility.
8 As I told you a moment ago, you would not be fair to
9 yourself if you plead guilty to something that you did not
10 honestly and truly believe that you are guilty of. Okay.
11 So I am not going to, Mr. Laubshire and Solicitor Daniel,
12 I am not going to accept his plea. Good luck to you, sir.

13 MR. LAUBSHIRE: Thank you, Your Honor.

14 MR. DANIEL: Your Honor, tomorrow this is still on
15 the trial docket.

16 THE COURT: Okay. Very good, thank you. Good luck
17 to you, sir. Talk to Mr. Laubshire and if he truly
18 believes that you maybe have some information that I need
19 to know, I am going to let Mr. Laubshire make that call.
20 Okay. And I am not trying to be rude to you, sir, I know
21 you are the Dad, you are concerned. I would feel just
22 like you. But you need to run it by Mr. Laubshire first.
23 Okay. Thank you.

24 (Whereupon, a break in this case due to another
25 plea.)

1 told. Okay. So, I have talked to Mr. Laubshire, he says
2 he is fully prepared to go forward with the trial starting
3 tomorrow. And that is what we are going to do. Okay. So
4 it is in your best interest to communicate and cooperate
5 with Mr. Laubshire. Okay. He says that you have -- even
6 though, maybe yesterday that it went pretty well. This
7 morning you indicated that you did not want to talk with
8 or to communicate with Mr. Laubshire. But it would be in
9 your best interest to do what. And Mr. Laubshire is a
10 good lawyer. He has indicated he is fully ready and
11 prepared to go forward tomorrow and represent you at trial
12 so that is what we are going to do. Okay.

13 Mr. Laubshire, do you need any more time to spend
14 with Mr. Blackwell today?

15 MR. LAUBSHIRE: Judge, briefly, after hearing we can
16 meet. In the meantime, Your Honor, I would, if Mr. Daniel
17 is willing to do this or not, I have to ask. The offer
18 that was made to Mr. Blackwell. I gave him the offer, I
19 explained the offer to him. I would like, for purposes of
20 the record, if Solicitor Daniel is still open to this,
21 give him the offer and let him reject the offer on the
22 record.

23 THE COURT: Okay. What was the, you have to remind
24 me, I forget what was worked out.

25 MR. DANIEL: Your Honor, Mr. Blackwell has four

1 pending cases in Newberry General Sessions Court. The
2 first one is a distribution heroin and that stems from
3 April 16th of 2019. The second case, Judge, is another
4 distribution, heroin. That stems from a April 25th, 2019
5 incident. The third case, Judge, is another distribution
6 heroin stemming from July 23rd of 2019 incident. And
7 lastly, Judge, the fourth case which is on the trial
8 docket is the trafficking methamphetamine charge, true
9 billed indictment, trafficking in methamphetamine 28 to
10 100 grams. That stems from January 30th, 2020 incident.
11 Judge, that is a second offense, that carries a penalty of
12 7 to 30 years and a mandatory \$50,000.00 dollar fine as
13 well; eighty-five percent strike offense. Judge, the plea
14 offer was, for the lead charge to be reduced down to a
15 trafficking, 10 to 28 grams, so a lessor, second offense.
16 So it carries 5 to 30 years. And so it reduces his
17 mandatory, minimum exposure by two years; recommending a
18 cap of 10 years and to run two counts of distribution
19 heroin concurrent.

20 THE COURT: Okay. Mr. Blackwell, that was the offer
21 that was made yesterday. And based upon the plea
22 colloquy, you had a lot of hesitance which was fine. You
23 have every right not to plead guilty to any of these
24 charges. You have a full right to go to trial. Are you
25 rejecting the offer made by the State?

1 pretrial. We may have to get a little creative with the
2 arraignment.

3 MR. DANIEL: He may get disruptive.

4 THE COURT: He hasn't been disruptive, he just
5 doesn't really fully understand maybe. Maybe being a
6 little abstinent.

7 (Whereupon, the jury panel came into open court at
8 approximately 10:30 a.m.)

9 THE COURT: The case that has been called for trial
10 is the State of South Carolina versus the Defendant,
11 Kendrick Tremain Blackwell. Okay. And once, again,
12 ladies and gentlemen, you cannot place any significance
13 whatsoever on the fact that currently Mr. Blackwell is not
14 in the courtroom. He has been indicted for one offense
15 and I am going to publish this indictment to you. But I
16 am going to tell you now the indictment is not evidence
17 whatsoever of any guilt on Mr. Blackwell's part. The
18 indictment serves two purposes. One, it puts the
19 Defendant and his attorney on notice of the charge that
20 the State intends to try him on, there is only one charge
21 in this case. And, secondly, it is the mechanism to get
22 the case into court where we are today. But once again,
23 it is not proof of any guilt whatsoever on Mr. Blackwell's
24 part. The State has the burden of proof to prove the
25 allegations contained in the indictment. But I am going

1 to read the indictment to you so you can have a little
2 idea about what this case is about. The indictment reads
3 as follows: Trafficking methamphetamine, section
4 44-53-375(c) of the code of laws of South Carolina. The
5 Defendant, Kendrick Tremain Blackwell, did on or about
6 January 30th, 2020 in Newberry County, South Carolina
7 knowingly sell, manufacture, deliver, purchase or bring
8 into this State; or did provide financial assistance or
9 otherwise, did aid, abet, attempt or conspire to sell,
10 manufacture, deliver, purchase or bring into this State;
11 or was knowingly, in actual or constructive possession or
12 knowingly attempted to become in actual or constructive
13 possession of 28 grams or more of methamphetamine as
14 defined and otherwise limited in sections, 44-53-110,
15 44-53-210(d)(1) or 44-53-210(d)(2), all in violation of
16 section 44-53-375(c), code of laws of South Carolina as
17 amended.

18 I am going to ask you a series of questions that are
19 specifically related to this case. And the same rules
20 apply. If you need to speak with me privately about any
21 question that I ask or any issue about this particular
22 case then I will be glad to give you that opportunity to
23 speak with me privately. Any member of the jury panel
24 related by blood or marriage either now or formerly to
25 Kendrick Tremain Blackwell. If so please stand.

1 (No response.)

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

5 (No response.)

6 THE COURT: I am going to publish a list of potential
7 witnesses in this case. They may or may not testify.
8 They are, Michael Stribble with Newberry County Sheriffs
9 Office; Robert Dennis with Newberry County Sheriffs
10 Office; Shana Sorrells, that is S-O-R-R-E-L-L-S; James
11 Parr, Jr; Iyeshia Sims; Jared Hunnicutt with the Eighth
12 Circuit Solicitor's Office; Ben Chapman with Newberry
13 County Sheriffs Office; Ryan Dickert with the Newberry
14 County Sheriffs Office. Any member of the jury panel
15 related by blood or marriage, either now or formerly to
16 those people I just named. Any member of the jury panel
17 have or had in the past a close, personal or social
18 relationship with any of those people I have just named.
19 If that applies to you please stand.

20 I have got two. Ma'am, if you will give us your name
21 and your jury number.

22 JUROR: Melissa Dennis. Robert Dennis is my husband.

23 THE COURT: Robert Dennis is your husband.

24 JUROR: Cousin.

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

1 from the trial of this case. But just stay with us for
2 any kind of lasting instructions.

3 MR. DANIEL: Judge, can I approach?

4 THE COURT: Yes, sir.

5 (Whereupon, a bench conference was held in the
6 presence of the jury panel but out of the hearing of
7 the jury panel.)

8 THE COURT: I need to speak to Noretha Miller. Come
9 on over here, I don't think we need to put this on the
10 record.

11 (Whereupon, the Court speaks to Ms. Miller in
12 private.)

13 THE COURT: Ladies and gentlemen, the Clerk's office
14 just got a note that this lady's grandson might need to go
15 to the hospital. So I have excused her and hope that
16 everything is okay. We have some additional witnesses
17 that I need to publish but let me go ahead, sir, your name
18 and your number?

19 JUROR: Melvin Dominick, juror 30. Myself and
20 Michael are distant relationship, probably about third or
21 fourth cousins.

22 THE COURT: Michael Laubshire?

23 JUROR: Michael Stribble. And myself and Ryan
24 Dickert, the Investigator, is married to my second cousin.

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

1 trial of this case but just stay with us for any lasting
2 instructions. Okay.

3 I am going to publish the additional list that, my
4 fault I didn't publish to you. And if I duplicate names I
5 have already read, there is no significance to that. I am
6 just not going to go through, you know, pick and choose
7 between the two lists. Okay. Iyeshia Sims; Michael
8 Stribble with Newberry County Sheriffs Office; Arthurlyn
9 A-R-T-H-U-R-L-Y-N Sanders with SLED; Vera Martinez with
10 SLED; Shana Sorrells with SLED; Jackie Davis with SLED;
11 Robert Dennis with Newberry County Sheriffs Office;
12 Sergeant Dickert with Newberry County Sheriffs Office;
13 Special Agent Wingo with SLED; Special Agent Gruhner, that
14 is G-R-U-H-N-E-R with SLED; Special Agent Owens with SLED;
15 Special Agent Tyner with SLED; and Special Agent Hiott
16 with SLED. And, again, any member of the jury panel
17 related by blood or marriage, either now or formerly to
18 any of those individuals I just named. Any member of the
19 jury panel have or had in the past a close, personal or
20 social relationship with any of those people I have just
21 named. If so please stand.

22 (No response.)

23 THE COURT: Now, I am going to give the lawyers
24 involved in this case an opportunity to introduce
25 themselves and anybody they may have with them. And I

1 will tell you and I don't say this about all lawyers that
2 appear in my court. But I can say about these lawyers,
3 three lawyers, two prosecutors, one defense lawyer; they
4 are excellent lawyers and I am sure they will do a very
5 good job with their respective sides. I will allow the
6 State to make introductions first.

7 MR. DANIEL: Thank you, Your Honor. Good morning,
8 ladies and gentlemen. I am Taylor Daniel, I am the
9 Assistant Solicitor for Newberry County. And I am trying
10 this case alongside Assistant Solicitor Margaret Boykin.
11 This is the lead investigator, Michael Stribble at
12 Newberry Sheriffs Office. And we work for David Stumbo,
13 your elected Solicitor via the Eighth Judicial Circuit.
14 That is comprised of Newberry, Laurens, Abbeville and
15 Greenwood Counties. A lot of States call them district
16 attorneys but we call them solicitors, prosecutors. And
17 we intend to secure a conviction for Kendrick Blackwell.
18 Thank you.

19 THE COURT: And the Defense.

20 MR. LAUBSHIRE: Good morning, my name is Michael
21 Laubshire. I am a private attorney and my office is in
22 Columbia. I work for a small law firm in Columbia, very
23 small; two lawyers, one investigator. I represent Mr.
24 Blackwell today. Thank you.

25 THE COURT: Any member of the jury panel ever been

1 represented by any of the attorneys involved in this case
2 or anyone in their respective offices. If so please
3 stand.

4 (No response.)

5 THE COURT: Any member of the jury panel related by
6 blood or marriage, either now or formerly, or have or had
7 in the past a close, personal or social relationship with
8 any of the attorneys in this case or anyone in their
9 respective offices. If so please stand.

10 (No response.)

11 THE COURT: Any member of the jury panel formed or
12 expressed already any opinion about any issue or matter
13 involved in this case. I realize that you know very
14 little, other than what I have told you. But if you have
15 already formed some opinion about any issue or matter in
16 this case I need to know that so please stand.

17 (No response.)

18 THE COURT: Any member of the jury panel aware of any
19 biased or prejudiced towards either the State or the
20 Defendant in this case.

21 (No response.)

22 THE COURT: Any member of the jury panel who is a
23 member of or a contributor to, to any group which has as
24 its primary purpose promotion of law enforcement or
25 victims rights. These groups would include, certainly not

1 limited to and I will give you the acronyms; SADD, MADD or
2 CAVE. If that applies to you please stand.

3 (No response.)

4 THE COURT: Any member of the jury panel, any of your
5 immediate family members ever been employed by any law
6 enforcement agency, even if only employed in an
7 administrative capacity. Any member of the jury panel or
8 any of your immediate family members ever been employed by
9 a law enforcement agency, even if in an administrative
10 capacity. If so please stand.

11 Your name and number.

12 JUROR: Stanley Kingsmore, I am not sure of my
13 number.

14 THE COURT: Okay.

15 JUROR: My daughter works with the Newberry County
16 Sheriffs Office.

17 THE COURT: Your daughter, the fact that your
18 daughter is so employed would that prevent you from being
19 fair and impartial to both the State and the Defense in
20 this case?

21 JUROR: No.

22 THE COURT: Your name and number.

23 JUROR: Brian Loignon, 85. I spent some time in the
24 Air Force as a security police officer, would not effect
25 my impartiality and my uncle also has.

1 THE COURT: Okay. So those two points would not
2 prevent you from being fair and impartial to both sides?

3 JUROR: No, sir.

4 THE COURT: Okay. Thank you, sir. Right there, your
5 name and number.

6 JUROR: Cody Dunaway, number 33. I have a second
7 cousin who is a cop in Prosperity.

8 THE COURT: Okay. Would that prevent you from being
9 fair and impartial to both sides?

10 JUROR: No, sir.

11 THE COURT: Sir, your name and number.

12 JUROR: My name is Wesly Rivas, my number is 112. My
13 brother is retired probation, parole officer for York
14 County and Laurens County. He retired from Laurens
15 County.

16 THE COURT: Okay. Would that prevent you from being
17 fair and impartial to both sides?

18 JUROR: No, sir.

19 THE COURT: Thank you, have a seat.

20 Several of the witnesses that may be called are law
21 enforcement officers. Is there any member of the jury
22 panel who would automatically believe all of a police
23 officer's testimony solely because he or she is a law
24 enforcement officer without applying the same set of
25 factors that you would apply to a civilian or regular

1 witness. If that applies to you please stand or if you
2 would hold that belief please stand.

3 (No response.)

4 THE COURT: Any member of the jury panel who has ever
5 donated any money or volunteered work to any law
6 enforcement agency, directly or any law enforcement
7 support group such as the Paternal Order of Police; Police
8 Benevolent Association; South Carolina Troopers
9 Association; Sheriffs Association; or the South Carolina
10 Law Enforcement Officers Association. Ever donated any
11 money or volunteered any work for those organizations. If
12 so please stand.

13 (No response.)

14 THE COURT: Any member of the jury panel ever donated
15 any money or performed volunteer work to any groups such
16 as Narcotics Anonymous; Partnership for a Drug Free
17 America; DARE or other similar organizations. If that
18 applies to you please stand.

19 (No response.)

20 THE COURT: Now there are two additional questions
21 that I will ask in a moment. If you need to respond to
22 those questions we are going to do back in-chambers and
23 not out in the open courtroom. Let me just ask you one
24 overall general question and I have already kind of asked
25 that to some of you folks who have responded to some of

1 these questions. Is there any member of the jury panel
2 know of any reason whatsoever why you feel like you could
3 not serve as a juror in this case with particular emphasis
4 being placed on your ability to be fair and impartial to
5 both the State and the Defendant. Ladies and gentlemen,
6 that is what we want. We want people, have a jury of
7 twelve and probably have two alternates. We want 14
8 people who can be completely fair and completely impartial
9 to both the State and the Defense. However, if you
10 believe for whatever reason you cannot be I need to know
11 that so please stand at this time.

12 (No response.)

13 THE COURT: Now, I am going to read out two
14 questions. If you need to speak with me privately then we
15 just kind of do like we did with the others with the help
16 of the deputies and the bailiffs. And these two questions
17 are as follows. Any member of the jury panel or any
18 member of your immediate family ever been charged with a
19 drug crime, regardless of the outcome of the case. And
20 the second, has any member of the jury panel ever been a
21 party to a criminal case in any court either as a victim,
22 a witness or a Defendant.

23 I will read those two again. Any member of the jury
24 panel or any of your immediate family members ever been
25 charged with a drug crime, regardless of the outcome of

1 the case. And secondly, any member of the jury panel ever
2 been a party to a criminal case in any court either as a
3 victim, a witness or as a Defendant. Does anybody need to
4 speak with me privately about either or both of those two
5 questions. All right. We will, just come on around in
6 this general area and we will bring them one at a time.
7 Once again, I invite the Court Reporter and the attorneys
8 to join me.

9 (Whereupon, the Court, Attorneys, Court Reporter, and
10 Jurors went in-chambers.)

11 THE COURT: Okay. Bring me the first one. Stand
12 right there and give us your name.

13 JUROR: My name is Wesly Rivas.

14 THE COURT: Yes, sir. What do you need to tell me.

15 JUROR: My daughter, she never really lived with me
16 but she is in prison, well she is in transitional right
17 now for, like, meth and other crimes that she had. And
18 she is in Georgia right now.

19 THE COURT: Would that prevent you from being fair
20 and impartial to both sides?

21 JUROR: No, sir.

22 THE COURT: Okay. Thank you. Stay with us and have
23 a seat back. Thank you for being honest with us. This
24 juror stays with us.

25 Ready for the next one. Your name and number.

1 JUROR: Stanley Kingsmore.

2 THE COURT: Okay.

3 JUROR: I was in a criminal case for attempted murder
4 and got dropped to assault and battery third.

5 THE COURT: Okay. And what role did you serve?

6 JUROR: I was the Defendant.

7 THE COURT: Okay. What was the outcome.

8 JUROR: It was dropped to a misdemeanor.

9 THE COURT: And you plead?

10 JUROR: Yes, sir.

11 THE COURT: Okay. And dropped to what now?

12 JUROR: A misdemeanor.

13 THE COURT: But it was A&B third did you say?

14 JUROR: I think so.

15 MR. DANIEL: Judge, we had a stand your ground
16 hearing, he was represented by Marion Moses. This is when
17 I first got hired. So I know Mr. Kingsmore.

18 THE COURT: It was an A&B third?

19 MR. DANIEL: After the stand your ground hearing and
20 we actually got to meet Mr. Kingsmore, he is a nice guy.

21 THE COURT: Would that prevent you from being fair
22 and impartial to both sides?

23 JUROR: Not at all.

24 THE COURT: Stay with us. This juror stays with us.
25 The next one. Give me your name, please.

1 JUROR: William Griffin.

2 THE COURT: Okay.

3 JUROR: Jurors number 53 or something. My
4 step-daughter is incarcerated now for drugs and her, my
5 granddaughter's father.

6 THE COURT: Okay.

7 JUROR: He stole from me. We appeared in front of
8 you.

9 THE COURT: Would that prevent you from being fair
10 and impartial to both sides?

11 JUROR: In a drug case, yes.

12 THE COURT: Okay. I am going to excuse you. Stay
13 with us, though, for any final instructions. Okay. Thank
14 you for your honesty. This juror is going to be excused
15 but he is going to remain with us just for purposes of
16 final instructions.

17 Your name.

18 JUROR: Ashley Davenport but I don't know my number.

19 THE COURT: Ms. Davenport.

20 JUROR: My brother, he served two years on a
21 conspiracy charge.

22 THE COURT: Okay. Would that prevent you from being
23 fair and impartial to both sides?

24 JUROR: No, sir.

25 THE COURT: Stay with us. Thank you, Ma'am. This

1 juror stays with us.

2 Your name?

3 JUROR: Angela Fowler.

4 THE COURT: Okay.

5 JUROR: My aunt, it was many years ago but she was
6 convicted.

7 THE COURT: Would that prevent you from being fair
8 and impartial to both sides?

9 JUROR: No, sir.

10 THE COURT: Stay with us. This juror stays with us.

11 (Whereupon, all parties back in the courtroom.)

12 THE COURT: Ladies and gentlemen, in just a minute we
13 will select a jury, we will be able to select a jury from
14 this group. We have a second group that, some are already
15 coming in. Looks like we can get a jury out of your
16 group. It just makes it a little more streamline for us.
17 If your name is called out you will stand and the lawyers
18 will say something like, swear the juror or we accept the
19 juror or excuse the juror from the trial of this case,
20 words to that effect. If you are accepted then you will
21 come down and have a seat in the jury box. We will go
22 with one alternate. If you are not accepted just have a
23 seat where you are. Don't take it personally if you are
24 not accepted. These lawyers have certain reasons why they
25 want certain people on the jury and others not on the

1 jury. So don't take offense to it, don't take it
2 personally. But if you are accepted you will come down
3 and sit in the jury box. Five and five and two and one on
4 the alternate. If y'all need to take a minute to let you
5 do that.

6 MR. DANIEL: We are ready, Your Honor.

7 MR. LAUBSHIRE: We are ready.

8 THE COURT: Okay. Madam Clerk. Before we go any
9 further. Does the State have any exceptions or objections
10 to the Court's voir dire?

11 MR. DANIEL: No, Your Honor.

12 THE COURT: And from the Defense?

13 MR. LAUBSHIRE: Nothing from the Defense, Your Honor.

14 THE COURT: Thank you. You may proceed, Madam Clerk.

15 CLERK OF COURT: Juror number 40, Tiara Floyd. What
16 says the State?

17 MR. DANIEL: Please present the juror.

18 CLERK OF COURT: What says the Defense?

19 MR. LAUBSHIRE: Please seat the juror.

20 CLERK OF COURT: You can come forward and have a seat
21 in the jury box. Number 24, Ashley Davenport. What says
22 the State?

23 MR. DANIEL: Please excuse the juror.

24 CLERK OF COURT: You can have a seat, thank you.

25 Number 64, Heather Hester. What says the State?

1 MR. DANIEL: Please present the juror.

2 CLERK OF COURT: What says the Defense?

3 MR. LAUBSHIRE: Please swear the juror.

4 CLERK OF COURT: You can come forward and have a seat
5 in the jury box. Number 14, David Carey. What says the
6 State?

7 MR. DANIEL: Please present the juror.

8 CLERK OF COURT: What says the Defense?

9 MR. LAUBSHIRE: Please swear the juror.

10 CLERK OF COURT: You can come forward and have a seat
11 in the jury box. Number 85, Brian Loignon. What says the
12 State?

13 MR. DANIEL: Please present the juror.

14 CLERK OF COURT: What says the Defense?

15 MR. LAUBSHIRE: Please swear the juror.

16 CLERK OF COURT: You can come forward and have a seat
17 in the jury box. Number 93, Brandy Metts. What says the
18 State?

19 MR. DANIEL: Please present the juror.

20 CLERK OF COURT: What says the Defense?

21 MR. LAUBSHIRE: Please swear the juror.

22 CLERK OF COURT: Come forward and have a seat.
23 Number 33, Cody Dunaway. What says the State?

24 MR. DANIEL: Please present the juror.

25 CLERK OF COURT: What says the Defense?

1 MR. LAUBSHIRE: Please excuse the juror from service
2 on this case.

3 CLERK OF COURT: You can have a seat. Number 49,
4 Louis Gooding. What says the State?

5 MR. DANIEL: Please present the juror.

6 CLERK OF COURT: What says the Defense?

7 MR. LAUBSHIRE: Please swear the juror.

8 CLERK OF COURT: You can come forward and have a
9 seat. Number 51, Hanselena Graves. What says the State?

10 MR. DANIEL: Please present the juror.

11 CLERK OF COURT: The Defense?

12 MR. LAUBSHIRE: Please swear the juror.

13 CLERK OF COURT: You can come forward and have a
14 seat. Number 50, Christopher Graddick. What says the
15 State?

16 MR. DANIEL: Please present the juror.

17 CLERK OF COURT: What says the Defense?

18 MR. LAUBSHIRE: Please swear the juror.

19 CLERK OF COURT: You can come forward and have a
20 seat. Number 125, Ryleigh Sherfield. What says the
21 State?

22 MR. DANIEL: Please present the juror.

23 CLERK OF COURT: The Defense?

24 MR. LAUBSHIRE: Please excuse the juror from the
25 trial of this case.

1 CLERK OF COURT: You can have a seat. Number 56,
2 James Hamar. What says the State?

3 MR. DANIEL: Please present the juror.

4 CLERK OF COURT: The Defense?

5 MR. LAUBSHIRE: Please swear the juror.

6 CLERK OF COURT: You can come forward and have a
7 seat. Number 5, Lloyd Arrowood. What says the State?

8 MR. DANIEL: Please present the juror.

9 CLERK OF COURT: The Defense?

10 MR. LAUBSHIRE: Please swear the juror.

11 CLERK OF COURT: You can come forward and have a
12 seat. Number 147, John Wolfe. What says the State?

13 MR. DANIEL: Please present the juror.

14 CLERK OF COURT: What says the Defense?

15 MR. LAUBSHIRE: Please excuse the juror from service
16 of this case.

17 CLERK OF COURT: You can have a seat. Number 69,
18 Iris Hollifield. What says the State?

19 MR. DANIEL: Please present the juror.

20 CLERK OF COURT: What says the Defense?

21 MR. LAUBSHIRE: Please excuse the juror.

22 CLERK OF COURT: You can have a seat. Number 36,
23 Timothy Elston. What says the State?

24 MR. DANIEL: Please present the juror.

25 CLERK OF COURT: The Defense?

1 MR. LAUBSHIRE: Please swear the juror.

2 CLERK OF COURT: You can come froward and have a
3 seat. Number 22, Thomas Crowe. What says the State?

4 MR. DANIEL: Please present the juror.

5 CLERK OF COURT: What says the Defense?

6 MR. LAUBSHIRE: Please swear the juror.

7 CLERK OF COURT: You can come forward and have a
8 seat.

9 MR. DANIEL: Your Honor, are we going to have two
10 alternates?

11 THE COURT: Yes, we are going to do two alternates
12 now because of the numbers. Two and one strike.

13 CLERK OF COURT: Number 43, Rebecca Frazier. What
14 says the State?

15 MR. DANIEL: Please present the alternate.

16 CLERK OF COURT: What says the Defense?

17 MR. LAUBSHIRE: Please excuse the alternate.

18 CLERK OF COURT: You can have a seat. Number 141,
19 Micah West. What says the State?

20 MR. DANIEL: Please present the alternate.

21 CLERK OF COURT: What says the Defense?

22 MR. LAUBSHIRE: Please swear the alternate.

23 CLERK OF COURT: You can come forward and have a
24 seat.

25 THE COURT: Second alternate, two and one strikes.

1 CLERK OF COURT: Number 21, Cynthia Crowe. What says
2 the State?

3 MR. DANIEL: Please present the alternate.

4 CLERK OF COURT: What says the Defense?

5 MR. LAUBSHIRE: Please excuse the alternate.

6 CLERK OF COURT: You can have a seat. Number 112,
7 Wesly Rivas. What says the State?

8 MR. DANIEL: Please excuse the alternate.

9 CLERK OF COURT: You can have a seat. Thank you.
10 Number 4, James Arrowood. What says the State?

11 MR. DANIEL: Please present the alternate.

12 CLERK OF COURT: The Defense?

13 MR. LAUBSHIRE: Swear the alternate.

14 CLERK OF COURT: You can come forward and have a
15 seat.

16 THE COURT: Thank you, Madam Clerk. Does the State
17 have any objections or exceptions to jury selection?

18 MR. DANIEL: None from the State, Your Honor.

19 THE COURT: From the Defense?

20 MR. LAUBSHIRE: Nothing from the Defendant, Your
21 Honor.

22 THE COURT: Thank you. Congratulations, ladies and
23 gentlemen, you have been selected as the trial jury in
24 this case. Let me give you a few instructions and kind of
25 lay out the plan for today. In just a moment I am going

1 to send you on for an early and a little bit longer lunch
2 break than what we normally do. I have got some pretrial
3 matters that I need to take up with the lawyers. And so I
4 am going to send you on in just a moment. I want you back
5 at 1:30 and be prompt at getting back. They will show you
6 where to go, you will be escorted downstairs in just a
7 moment and you will be shown where the jury is and where
8 you will need to report to. Now, you cannot begin any
9 discussion among yourselves about anything related to this
10 case. I understand that you know very little. Whatever
11 you do know or whatever you have seen or heard you cannot
12 begin any discussions among yourselves about anything
13 related to this case. And those discussions cannot start
14 until I tell you it is time to deliberate in order to
15 reach a unanimous verdict in this case. So no discussions
16 among yourselves. Now, when you leave and whoever you may
17 come into contact with, whether it is a friend, relative,
18 neighbor, whomever, no discussions with them. And you can
19 tell them you are on, been selected on a jury but leave it
20 at that. And no discussions cannot take place until after
21 this case is concluded. Now, thirdly and I will explain
22 more about this when you come back after the lunch break.
23 Do not do any research into this case. We have a wealth
24 of information, internet, social media and the like and it
25 may be tempting for you to try to learn something about

1 the Defendant, the nature of the charge, anything like
2 that. Don't do it and I will explain a real life
3 situation that happened to me several years ago in
4 Laurens. About three jurors violated that instruction.
5 So during the course of this case don't go on the internet
6 or social media or anything like that. After the case is
7 over with have at it but not during the case. And lastly,
8 if you go to lunch at a restaurant in town be sure to keep
9 that juror badge visible. The reason why I say that is
10 that, lawyers and maybe some of the police officers, maybe
11 me or some of the court staff might be at that same
12 restaurant, we may not recognize you for being on the
13 jury. And if the case is being discussed we certainly
14 don't want to discuss to where you can hear it. If we see
15 that juror badge then we know that we better be quiet and
16 not discuss the case. Be sure to have it on and visible.
17 Okay. So be back at 1:30, we will bring you back in and I
18 will give you some additional instructions and then we
19 will get started in the case. Have a good lunch and see
20 you back at 1:30.

21 (Whereupon, the jury is excused from open court for a
22 lunch break at approximately 11:13 a.m.)

23 (Whereupon, the remaining jury panel was excused from
24 open court at approximately 11:15 a.m.)

25 THE COURT: Let's take a short break and then we can

1 not warranted for a chain-of-custody. Really going back
2 to Rule 5, Rule 5 only applies to evidence that the
3 prosecution would admit in its case-in-chief. The
4 chain-of-custody relates, essentially to pretrial matters.
5 But in any event, Judge, we have an open file policy. We
6 have made it available to Mr. Laubshire any time. In
7 fact, I sent an email to Mr. Laubshire, essentially May
8 12th of 2020 inviting him to come to our office and make
9 sure he has complete discovery. Because, again, discovery
10 files can be voluminous. We had limited resources
11 ourselves. He is free to come to our office any time and
12 carouse the file. And I think we have complied with Rule
13 5 in that respect, Judge.

14 THE COURT: All right.

15 MR. LAUBSHIRE: Judge, this is not just a Rule 5
16 motion, this is actually a Rule 6 motion. I received an
17 email that had discovery in it. It is not a very
18 voluminous case. I trust when they send me something it
19 is the complete file. I have no reason that Mr. Daniel or
20 his staff, they have always been straight-up with me. So
21 I didn't think it would be necessary to come and examine
22 the file to be provided evidence in the case.

23 THE COURT: Let me, be at ease for just a moment.
24 Let me pull the Rule up here.

25 Well, you know, it appears that Rule 6 is designed

1 for several reasons. One is to provide ample time if the
2 Defense requires the chemist to appear and testify as
3 opposed to the Court accepting at trial, the Court and the
4 affidavit and all that goes with it, to give the State an
5 opportunity to subpoena the chemist. And two, even though
6 10, 11 days wouldn't necessarily be that great amount of
7 time. But if the Defendant wanted to have an independent
8 analysis done of the, of the drugs, so can refute what the
9 SLED chemist says, I am reading in, the Rule doesn't say
10 that but I am reading into the Rule because it provides
11 these time periods in order to, what I believe, would
12 allow each side to do, subpoena the analyst, get an
13 independent test done. So while I have always known and
14 have found the Eighth Circuit Solicitor's office in all
15 four counties to be very open with their file, I don't
16 think necessarily that would trigger Mr. Laubshire to go
17 down and doublecheck he got everything. So and I think
18 certainly a dismissal, even suppression would be a drastic
19 measure and I, it has been very rare that I have actually
20 ordered in the discovery motion or discovery dispute. I
21 think in this situation it looks like maybe Mr. Blackwell
22 might be, partially what he has been asking for. But I am
23 going to go ahead and grant the motion for a continuance.
24 And it may be prudent for you guys, before Mr. Laubshire
25 leaves is to verify that he has got everything so this

1 issue is not enough of an issue when this case is called
2 for trial. Unless you can give me something else,
3 Solicitor Daniel, and again this is not to suggest that in
4 any way whatsoever that anything was intentionally done
5 wrong or intentionally not provided. It is just, I mean
6 you guys have so many cases and some are just voluminous
7 discovery because there are so many cases. And sometimes
8 it is just, it is off the radar a little bit. But if you
9 have got anything else I will certainly reconsider my
10 granting a continuance.

11 MR. DANIEL: Well, Your Honor, I guess, I would like
12 to followup, January 6th, several weeks ago I emailed Mr.
13 Laubshire and I invited to once again, please contact
14 Jackie Lawrence, our office manager, to make sure he has
15 the complete discovery file. She scans documents into our
16 case management system. I don't think he ever followed up
17 with that, Judge. The Rule 6 is an obscure provision of
18 the Rules of criminal procedure. It is a huge, it would
19 be a confrontation clause violation under Michigan v.
20 Bryant, quite frankly to admit the affidavit of the SLED
21 drug analyst instead of having live testimony.

22 THE COURT: It could be a confrontation issue if the
23 Defense is not willing to accept the results along with
24 the affidavit and the other requirements, in Rule 6. I
25 mean, I think the Defendant would always have the right to

1 MS. BOYKIN: Judge, we would ask for a date certain
2 for the February 21st court term. That is a Holiday, that
3 Monday so it would be February 22nd for Mr. Blackwell. We
4 did have a Tracy Parsons up for trial that would be
5 lengthy, we would plan, hope to get to Mr. Blackwell that
6 week. But he would be first or second up that week. And
7 all offers are off the table at this point.

8 THE COURT: No question about that. Mr. Laubshire,
9 can you check your calendar and see if that week,
10 understanding that you may be second up, not first up.
11 Check your calendar and see if you are good.

12 MR. LAUBSHIRE: Judge, I am clear that week except I
13 have been noticed to appear in Newberry Magistrate's Court
14 that week.

15 THE COURT: Give the Magistrate of Newberry County a
16 heads up that you may be requesting a continuance.

17 MS. BOYKIN: And I just want to clarify for the
18 record, I believe Mr. Laubshire was talking about
19 documents that was generated on January 19th, that would
20 be the internal chain from SLED, that was the date that
21 was printed from our printer and was sent to you. It was
22 generated way before.

23 THE COURT: So this case will be continued and will
24 be the first or second up the week of the 22nd of
25 February. Now, let's, while we have got -- you raised

1 your hand so you wanted to say something. But before we
2 hear from you we need to arraign you on this trafficking
3 charge because it is a direct indictment, as I have been
4 told. So what I need to do is see if you and your lawyer
5 want it published, number one; and number two, I just need
6 to ask you how you plead, not guilty or guilty. And if
7 you plead not guilty, if you want to be tried by God and
8 your Country. I need to go through that formality, that
9 arraignment formality. So, Madam Clerk, if you will swear
10 Mr. Blackwell in, please.

11 Kendrick Blackwell, being
12 first duly sworn, testified as follows:

13 THE COURT: Mr. Laubshire, do you want the indictment
14 published on the record?

15 MR. LAUBSHIRE: Yes, Your Honor.

16 THE COURT: This is what the indictment says, Mr.
17 Blackwell. It is indictment 2022-GS-36-00002. And it
18 reads as follows:

19 The Defendant, Kendrick Tremain Blackwell, did on or
20 about January 30th, 2020 in Newberry County, South
21 Carolina knowingly sell, manufacture, deliver, purchase or
22 bring into this State; or did provide financial assistance
23 or otherwise, aid, abet, attempt or conspire to sell,
24 manufacture, deliver, purchase or bring into this State;
25 or was knowingly in actual or constructive possession or

1 FEBRUARY 22, 2022

2 (Whereupon, The Court, Kendrick Blackwell and
3 Attorneys are In-Chambers for a discussion with Mr.
4 Blackwell as indicated below.)

5 THE COURT: How are you doing today?

6 MR. BLACKWELL: Good.

7 THE COURT: Mr. Blackwell, Mr. Laubshire tells me
8 that you do not want to participate in this trial that we
9 are starting today as far as sitting at the counsel table
10 with him. Is that right, you don't want to be in the
11 courtroom?

12 MR. BLACKWELL: I don't want to proceed to trial and
13 I pick my 12, why am I picking my 12 today. I don't want
14 to go to trial, how am I going to trial. That is against
15 my rights.

16 THE COURT: What we are going to do, is that we are
17 going to, in just a few minutes, we are going to, what we
18 call, qualify the jury and then pick the jury for your
19 trial. And all I need to know, do you want to participate
20 with Mr. Laubshire on that?

21 MR. BLACKWELL: Like I said, sir --

22 THE COURT: Lower your mask so I can hear you.

23 MR. BLACKWELL: That would be against my rights. I
24 ask to pick my 12, how are we going to start a trial today
25 and I have to pick my 12. I have no motion or nothing, I

1 need all of that. If not, they can just, I don't know.
2 Everything should be dropped, that is bogus.

3 THE COURT: Well, you know, if the jury finds you not
4 guilty then, you know, that would be a good thing for you.
5 We are going forward on --

6 MR. BLACKWELL: Like I said though, how can I go
7 forward, and because, it seems like y'all are rushing me
8 now. It seems like you are rushing me now. That is
9 putting me in jeopardy now. Like it feels like I am
10 jeopardy now.

11 THE COURT: Well, my question, just answer my
12 question. Do you want to participate with Mr. Laubshire
13 in the selection of the jury this morning. Do you want to
14 be in the courtroom to do that. He probably would like
15 you in the courtroom to help him pick the jury. But it is
16 your right whether or not you want to be in there with him
17 or not.

18 MR. BLACKWELL: I feel like --

19 THE COURT: Just answer my question.

20 MR. BLACKWELL: It feels like I am being rushed. I
21 am, I feel like I am being rushed and I feel like my
22 rights ain't being, I feel like my rights -- y'all ain't
23 got nothing, just my rights. So what I am saying, like I
24 am being rushed. No, how are we going to do all this. I
25 understand that, I ain't never heard of that.

1 THE COURT: If you, let me just remind you. Do you
2 remember when you were here last month, do you remember
3 that?

4 MR. BLACKWELL: Uh-huh. (Indicates in the
5 affirmative.)

6 THE COURT: And your case was on the trial docket
7 then. And we attempted to put up your guilty plea but
8 just didn't, that didn't turn out. So the fact that the
9 Court did not accept your guilty plea, you really were not
10 wanting to plead guilty. Then the case being on the trial
11 docket, we pick the jury and then because of an issue that
12 Mr. Laubshire correctly pointed out, allowed for a
13 continuance to be granted, which I granted the continuance
14 and then reset it for this week. We are going forward, I
15 will make sure that the trial, that all of your rights are
16 being protected. So answer my question. Do you want to
17 be in the courtroom with Mr. Laubshire when we pick a
18 jury, yes or no.

19 MR. BLACKWELL: I have one more question.

20 THE COURT: Okay.

21 MR. BLACKWELL: I ain't suppose to be in Newberry,
22 period, doing my trial. That is what I am trying to tell
23 y'all. I pick my 12, change of venue, you know what that
24 means, everybody knows what that means.

25 THE COURT: All right, where do you want to pick your

1 12 at?

2 MR. BLACKWELL: I don't know, I haven't thought about
3 it.

4 THE COURT: So, do you want to sit with your lawyer
5 out in the courtroom or not, yes or no?

6 MR. BLACKWELL: I don't know, I don't understand.

7 THE COURT: Let me ask you this. Do you want to take
8 a few minutes, talk to Mr. Laubshire about this, before
9 you give me an answer. Would you like that?

10 MR. BLACKWELL: I don't understand, this is like,
11 y'all are trying to --

12 THE COURT: Tell me, yes or no, do you want to be in
13 the courtroom during jury selection?

14 MR. BLACKWELL: Yes, I want to pick my jury, yeah.

15 THE COURT: All right. So, what about having any,
16 does Charles have any civilian attire that he could put
17 on?

18 MR. LAUBSHIRE: I don't know. I didn't see any there
19 this morning.

20 THE COURT: Taylor, could you check with the jail
21 about that and just see, the clothes that he had on. So
22 what I am hearing you say is that you will sit out there
23 and assist Mr. Laubshire in jury selection. Very good.

24 MR. BLACKWELL: I told him when I say, no, would I
25 got to wait?

1 THE COURT: No, you say no then we are going to pick
2 the jury without you.

3 MR. BLACKWELL: I will pick my own jury. I don't
4 want my trial handled in Newberry.

5 THE COURT: It is going to go forward today. Okay.
6 Let me just ask you a few questions, Mr. Blackwell,
7 concerning your understanding of a trial and proceedings.
8 You understand what a Judge does? What does a Judge do in
9 a trial?

10 MR. BLACKWELL: I never been to trial before.

11 THE COURT: Sir?

12 MR. BLACKWELL: Never been to trial before.

13 THE COURT: Okay. Do you have any idea what a Judge
14 does?

15 MR. BLACKWELL: I don't know.

16 THE COURT: How about your Defense Lawyer, what does
17 he do, what is his role?

18 MR. BLACKWELL: He is suppose to defend me and make
19 sure that everything is straight.

20 THE COURT: Okay. How about the Prosecutor,
21 Solicitor Daniel and Solicitor Boykin, what is their role?

22 MR. BLACKWELL: They are going against me, that is
23 what they are doing. But it seems like he is working with
24 them.

25 THE COURT: Okay. And then a jury, what does the

1 jury do, what is their role?

2 MR. BLACKWELL: They find if I am guilty or not.

3 THE COURT: Okay. I think you have got a real good
4 understanding. And, Walter, just take him back. They are
5 going to bring your clothes to you and then once that is
6 done then we are going to get started. Okay.

7 (Whereupon, Mr. Blackwell was taken out of
8 in-chambers to change clothes for the trial.)

9 (Whereupon, jury panel in at approximately 11:50
10 a.m.)

11 THE COURT: Ladies and gentlemen, the first case that
12 has been called for trial is the case of the State of
13 South Carolina against Kendrick Tremain Blackwell. Mr.
14 Blackwell, will you just stand for just a second so they
15 can see you.

16 (Whereupon, Mr. Blackwell stood for the jury panel.)

17 THE COURT: That is good, you can have a seat. Thank
18 you. Ladies and gentlemen, Mr. Blackwell has been
19 indicted with the offense of trafficking in
20 methamphetamine. Let me explain to you, the fact that Mr.
21 Blackwell has been indicted is not proof whatsoever on any
22 guilt on his part. The allegations contained in the
23 indictment, it is up to the State and the State alone to
24 prove those allegations to a trial jury beyond a
25 reasonable doubt and I will explain all of that later to

1 you. The indictment serves two purposes and two purposes
2 only. One, it puts the Defendant and his attorney on
3 notice of the charge that the State intends to try him on.
4 And, secondly, it is the mechanism to get the case into
5 court where we are today. The indictment serves no other
6 purpose so you cannot use the indictment against Mr.
7 Blackwell. However, have a little idea about the charge
8 that has been made against Mr. Blackwell. I am going to
9 read the indictment to you.

10 It is indictment 2022-GS-36-02. And it reads as
11 follows: The Defendant, Kendrick Tremain Blackwell, did
12 on or about January 30th, 2020 in Newberry County, South
13 Carolina knowingly sell, manufacture, deliver, purchase or
14 bring into this State; or did provide financial assistance
15 or otherwise aid, abet, attempt or conspire to sell,
16 manufacture, deliver, purchase or bring into this State;
17 or was knowingly in actual or constructive possession or
18 knowingly attempted to become in actual or constructive
19 possession of 28 grams or more of methamphetamine as
20 defined and otherwise limited in sections, 44-53-110,
21 44-53-210(d)(1) or 44-53-210(d)(2), all in violation of
22 section 44-53-375(c), code of laws for South Carolina.

23 Is there any member of the jury panel related by
24 marriage, either now or formerly to Kendrick Tremain
25 Blackwell. If so please stand.

1 (No response.)

2 THE COURT: Let me just go ahead and stop, the same
3 rules apply. If I ask you a question that you don't want
4 to respond to in front of everybody then I will speak with
5 you privately and I am going to have probably a couple of
6 questions that I am going to specifically tell you, if you
7 need to respond to that question or questions will do so
8 privately back in-chambers. Okay.

9 Any member of the jury panel have or had in the past
10 a close, personal or social relationship with Kendrick
11 Tremain Blackwell. If so please stand.

12 (No response.)

13 THE COURT: Any member of the jury panel and I am
14 going to read a list of potential witnesses in this case.
15 But I am going to go ahead and ask the question. Any
16 member of the jury panel related by blood or marriage,
17 either now or formerly or any member of the jury panel
18 have or had in the past a close, personal or social
19 relationship with the following individuals.

20 Michael Stribble with Newberry County Sheriffs
21 Office; Robert Dennis with Newberry County Sheriffs
22 Office; Casey Rembisz, R-E-M-B-I-S-Z; Shana Sorrells with
23 SLED; James Parr, Jr; Iyeshia Sims; Jared Hunnicutt with
24 the Eighth Circuit Solicitor's Office; Walter Bentley with
25 the Eighth Circuit Solicitor's Office. So I will ask the

1 question again. Any member of the jury panel related by
2 blood or marriage, either now or formerly to those people
3 that I just named. Any member of the jury panel have or
4 had in the past a close personal or close social
5 relationship with any of those people I have just named.
6 If that applies to you please stand.

7 (No response.)

8 THE COURT: I am going to give the attorneys an
9 opportunity to introduce themselves. And as they have
10 heard me say this before when they have been in court with
11 me. I know these lawyers, they are excellent attorneys,
12 all of them. The two on the State's side and the one on
13 the Defense side. And I am going to give the State the
14 opportunity to introduce themselves first.

15 MR. DANIEL: Thank you, Your Honor. May it please
16 the Court. I am Taylor Daniel, I am one of the Assistant
17 Solicitor's assigned to this case. A lot of States call
18 us District Attorneys or Prosecutors. And it is going to
19 be our job to attempt to secure a conviction against
20 Kendrick Blackwell for the charge of the crime of
21 trafficking methamphetamine. Trying this case alongside
22 Assistant Solicitor Margaret Boykin. And then the lead
23 Investigator from the Newberry Sheriffs Office is
24 Lieutenant Michael Stribble, Chief Narcotics Officer. And
25 then our Office Investigator, Walter Bentley.

1 THE COURT: And the Defense.

2 MR. LAUBSHIRE: May it please the Court, Your Honor.
3 I am Michael Laubshire, I represent Mr. Blackwell in this
4 case. My job is to try and secure a not guilty verdict in
5 this case, as the Prosecutor is saying try to secure a
6 guilty. I am in a small office in Columbia, an attorney,
7 one investigator and a paralegal. Thank you.

8 THE COURT: Any member of the jury panel related by
9 blood or marriage either now or formerly or have or had in
10 the past a close personal or social relationship with any
11 of the attorneys involved in this case or anyone in their
12 respective offices. If so please stand.

13 (No response.)

14 THE COURT: Any member of the jury panel ever been
15 represented by any of the attorneys involved in this case
16 or anyone in their respective offices. If so please
17 stand.

18 (No response.)

19 THE COURT: Any member of the jury panel already
20 formed or expressed any opinion about any issue or matter
21 involved in this case. If so please stand.

22 (No response.)

23 THE COURT: Any member of the jury panel aware of any
24 biased or prejudiced towards either the State or the
25 Defense in this case. If so please stand.

1 (No response.)

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

8 (No response.)

9 THE COURT: Any member of the jury panel or any of
10 your immediate family members ever been employed by a law
11 enforcement agency even if only employed in some
12 administrative capacity. I will ask that again. Any
13 member of the jury panel, any of your immediate family
14 members ever been employed by any law enforcement agency,
15 even if employed in an administrative capacity. If that
16 applies to you please stand. We will start back here.
17 Your name and juror number.

18 JUROR: Teresa Maybin. My nephew is in law
19 enforcement.

20 THE COURT: The fact that you have a nephew in law
21 enforcement, can you still be fair and impartial to both
22 sides in this case?

23 JUROR: Yes.

24 THE COURT: Thank you, Ma'am.

25 Yes, sir. Name and number.

1 JUROR: Number 58, Harold Hunter.

2 THE COURT: Yes, sir.

3 JUROR: My son-in-law, I don't know if that is
4 included as immediate family.

5 THE COURT: Okay.

6 JUROR: Was with the Newberry City Police for a
7 number of years and he is now with Prisma Health.

8 THE COURT: Can you still be fair and impartial to
9 both sides in this case?

10 JUROR: Yes, sir.

11 THE COURT: Thank you, sir. In the front.

12 JUROR: Gary Mazzanna, I don't remember my juror
13 number.

14 THE COURT: Okay.

15 JUROR: My brother is in New Jersey, a retired police
16 officer in New Jersey.

17 THE COURT: In light of that can you still be fair
18 and impartial to both sides in this case?

19 JUROR: Hell, no.

20 THE COURT: Okay. I want to excuse you but I want
21 you to sit here. And I will talk with you later.

22 JUROR: Okay.

23 THE COURT: Sir, your name and number.

24 JUROR: Chris Brown, number 17. My step-son is
25 employed by Newberry County Sheriffs Office as a Sergeant.

1 THE COURT: Can you still be fair and impartial to
2 both sides in this case in light of that?

3 JUROR: Yes, sir.

4 THE COURT: Thank you. Gentleman back here.

5 JUROR: I think it is 43. Mason Graham. I have a
6 cousin that is with Newberry City Police.

7 THE COURT: Can you still be fair and impartial to
8 both sides in this case?

9 JUROR: Yes.

10 THE COURT: Thank you. Several of the witnesses that
11 may be called by the State are law enforcement officers.
12 Is there any member of the jury panel who would
13 automatically believe all of a police officer's testimony
14 solely because he or she is a law enforcement officer
15 without applying the same factors that you would apply to
16 any other regular witness. Let me read that again.
17 Several of the witnesses that may be called by the State
18 are law enforcement officers. Is there any member of the
19 jury panel who would automatically believe all of a police
20 officer's testimony solely because he or she is a law
21 enforcement officer without applying the same set of
22 factors that would apply to other regular witnesses. If
23 that applies to you please stand.

24 (No response.)

25 THE COURT: This next question is similar to what I

1 previously asked. But I am going to ask it. Any member
2 of the jury panel ever donated any money or volunteered
3 work for any law enforcement agency directly or any law
4 enforcement support groups such as Maternal Order of
5 Police, Police Benevolent Association, South Carolina
6 Trooper's Association, Sheriffs Association or the South
7 Carolina Law Enforcement Officers Association. If that
8 applies to you please stand. Your name and number.

9 JUROR: Felicia Tyler, 133. Regular donation.

10 THE COURT: To who.

11 JUROR: To the Sheriff.

12 THE COURT: Can you still be fair and impartial to
13 both sides?

14 JUROR: Yes, sir.

15 THE COURT: Thank you, ma'am.

16 Sir, your name and number?

17 JUROR: Harold Hunter, 58. Donated to the Sheriffs
18 Association.

19 THE COURT: Can you still be fair and impartial to
20 both sides in this case?

21 JUROR: Yes.

22 THE COURT: Thank you. Any member of the jury panel
23 ever donated any money or volunteered work to any group
24 such as Narcotics Anonymous, partnership for a Drug Free
25 America; DARE or any other similar agency or organization.

1 (No response.)

2 THE COURT: The next two questions that I ask, if you
3 need to respond to it I want to speak to you privately in
4 the presence of the Court Reporter, the Lawyers and the
5 Clerk of Court. Okay. Any member of the jury panel, any
6 of your immediate family members ever been charged with a
7 drug crime regardless of the outcome of the case. And the
8 second question, any member of the jury panel ever been a
9 party to a criminal case in court either as a victim, a
10 witness or a defendant. I am going to ask these two
11 questions again. Don't respond, I need to speak with you
12 privately. Any member of the jury panel, any of your
13 immediate family members ever been charged with a drug
14 crime regardless of the outcome of the case. And any
15 member of the jury panel ever been a party to a criminal
16 case in court either as a victim, a witness or a
17 defendant. Now, does anybody concerning those two
18 questions, does anybody need to speak with me privately
19 please stand. Okay.

20 I will give you any opportunity, if there is any
21 other issue you need to bring to my attention, I need to
22 speak with you privately as well. So just get in the line
23 and I invite everyone to come back and join me.

24 (Whereupon, the Court, Court Reporter and Attorneys
25 along with Jurors are in-chambers.)

1 THE COURT: I am ready for the first one. What is
2 your name.

3 JUROR: Forrest White.

4 THE COURT: Okay, Mr. White.

5 JUROR: My sister, Victoria Davis, Victoria Wilson,
6 my sister. She has been accused of something like, it was
7 recently and I have been in Saluda County three years ago.
8 And it was default but I was proven guilty but I had no
9 evidence. And basically what you are telling people
10 today, honestly and truthfully, I really don't think I
11 would want to be on this because I have --

12 THE COURT: It would be hard for you to be fair and
13 impartial.

14 JUROR: Yes, sir. It just, honestly me, what he just
15 said about that, I just can't. Don't want to cause no
16 problem.

17 THE COURT: We understand. You are excused. This
18 juror is excused.

19 Your name.

20 JUROR: Ray Austin.

21 THE COURT: Yes sir, Mr. Austin.

22 JUROR: My brother is selling drugs, did.

23 THE COURT: Your brother is selling drugs. The fact
24 that your brother previously sold drugs, would that
25 prevent you from being fair and impartial to both sides?

1 JUROR: Yes, sir.

2 THE COURT: I will excuse you, you are free to go.

3 Juror is excused.

4 Yes ma'am, your name and number.

5 JUROR: Teresa Maybin.

6 THE COURT: And what would you like to tell me.

7 JUROR: My son was involved in a crime in Abbeville

8 County. And my brother had been charged with drugs.

9 THE COURT: You have a brother that was charged with
10 drugs previously and then you have a son who is involved
11 in drugs?

12 JUROR: No, not drugs, something else.

13 THE COURT: Another criminal offense?

14 JUROR: Yes.

15 THE COURT: Would that prevent you from being fair
16 and impartial to both sides?

17 JUROR: No.

18 THE COURT: You can be fair and impartial?

19 JUROR: Yes.

20 THE COURT: Thank you, stay with us. This juror
21 stays with us.

22 Yes sir, your name.

23 JUROR: Justin Bradburn.

24 THE COURT: What would you like to tell me, Mr.
25 Bradburn.

1 JUROR: My dad, two uncles and my cousin, I thought I
2 had to tell you.

3 THE COURT: They have had criminal convictions in the
4 past?

5 JUROR: Yes.

6 THE COURT: Okay. The fact that you have family with
7 some criminal convictions, can you still be fair and
8 impartial to both sides?

9 JUROR: Yes.

10 THE COURT: Thank you. Stay with us. This juror
11 stays with us.

12 Your name?

13 JUROR: Colby Kneece.

14 THE COURT: Yes, sir.

15 JUROR: Regarding your question if I ever like worked
16 for a law enforcement agency. I was an intern for the
17 Coroner's office.

18 THE COURT: You interned for the Coroner's office?

19 JUROR: Yes, sir.

20 THE COURT: You are good, stay with us. Thank you.
21 This juror stays with us.

22 Your name?

23 JUROR: Richard England.

24 THE COURT: What would you like to tell me.

25 JUROR: A victim of a home robbery.

1 THE COURT: How long ago was that?

2 JUROR: About 20 years ago.

3 THE COURT: The fact that you were a victim of a home
4 robbery about 20 years ago can you still be fair and
5 impartial to both sides in this case?

6 JUROR: I believe so.

7 THE COURT: Are you sure about that?

8 JUROR: Yes.

9 THE COURT: Stay with us. Thank you very much. This
10 juror stays with us.

11 How many do we have?

12 MR. DANIEL: 31.

13 THE COURT: We will have two alternates.

14 CLERK OF COURT: We have 31.

15 (Whereupon, the Court, Court Reporter and Attorneys
16 go back into the courtroom.)

17 THE COURT: Let me ask one more, just general
18 question, and for those of you who come back and spoke
19 with me in private, you don't need to respond. But I just
20 need to make sure, is there any other reason that we
21 haven't covered that would cause you to be unable to be
22 fair and impartial to both sides in this case. And that
23 is the key we want on a trial jury, we want people who can
24 be completely fair and completely impartial to both sides.
25 But if there is any reason or other reason that we haven't

1 even discussed that would cause you some concern I need to
2 know that and I need for you to stand if that is an issue.

3 (No response.)

4 THE COURT: Ladies and gentlemen, the lawyers are
5 looking over, what we call the jury strike list and when
6 we start the process, if your name is called you will
7 stand, you don't have to say anything, okay. And the
8 lawyers will either say, swear the juror, we accept the
9 juror or they may even say, excuse the juror from the
10 trial of this case. If you are selected then you will
11 come and be directed by the Bailiff where to sit in our
12 modified jury box. If you are not selected then you will
13 sit back down. Don't take offense to, if you are not
14 selected. Lawyers have reasons for wanting certain people
15 on a jury and reasons for not wanting people on a jury.
16 So don't take it personally if you are not selected.
17 Lawyers, let me know when you are ready.

18 MR. DANIEL: Ready, your Honor.

19 MR. LAUBSHIRE: Ready, Your Honor.

20 THE COURT: Madam Clerk, if you will proceed forward,
21 please. Five and five and we will have two alternates, so
22 two and one on the strikes for each alternate.

23 CLERK OF COURT: Juror number 75, Steve Lemus. What
24 says the State?

25 MR. DANIEL: Please excuse the juror.

1 CLERK OF COURT: You can have a seat. Thank you.

2 Juror number 46, Shameka Hair. What says the State?

3 MR. DANIEL: Please excuse the juror.

4 CLERK OF COURT: You can have a seat. Thank you.

5 Juror number 45, Ralph Griffith. What says the State?

6 MR. DANIEL: Please present the juror.

7 MR. LAUBSHIRE: What is the juror number?

8 CLERK OF COURT: 45.

9 MR. LAUBSHIRE: Please excuse the juror from the
10 service of this case.

11 CLERK OF COURT: You can have a seat. Thank you.

12 Juror number 9, Daniel Bedenbaugh. What says the State?

13 MR. DANIEL: Please present the juror.

14 CLERK OF COURT: The Defense?

15 MR. LAUBSHIRE: Please excuse the juror from the
16 service of this case.

17 CLERK OF COURT: You can have a seat. Thank you.

18 Juror number 17, Christopher Brown. What says the State?

19 MR. DANIEL: Please present the juror.

20 CLERK OF COURT: The Defense?

21 MR. LAUBSHIRE: Please excuse the juror.

22 CLERK OF COURT: You can have a seat. Thank you.

23 Juror number 35, Richard England. What says the State?

24 MR. DANIEL: Please present the juror.

25 CLERK OF COURT: What says the Defense?

1 MR. LAUBSHIRE: Please excuse the juror.

2 CLERK OF COURT: You can have a seat. Thank you.

3 Juror number 3, Charles Avery. What says the State?

4 MR. DANIEL: Please present the juror.

5 CLERK OF COURT: The Defense?

6 MR. LAUBSHIRE: Please swear the juror.

7 CLERK OF COURT: You can come forward and have a seat
8 in the jury box. Juror number 85, Andy Martinez. What
9 says the State?

10 MR. DANIEL: Please present the juror.

11 CLERK OF COURT: What says the Defense?

12 MR. LAUBSHIRE: Please swear the juror.

13 CLERK OF COURT: You can come up and have a seat.
14 Number 34, Cole Eison. What says the State?

15 MR. DANIEL: Please present the juror.

16 CLERK OF COURT: What says the Defense?

17 MR. LAUBSHIRE: Please swear the juror.

18 CLERK OF COURT: Come forward and have a seat.
19 Number 6, Jeffrey Bates. What says the State?

20 MR. DANIEL: Please excuse this juror.

21 CLERK OF COURT: Have a seat. Thank you. Number
22 133, Felicia Tyler. What says the State?

23 MR. DANIEL: Please present the juror.

24 CLERK OF COURT: The Defense?

25 MR. LAUBSHIRE: Swear the juror.

1 CLERK OF COURT: Come foreward and have a seat.

2 Number 71, Kayla Koon. What says the State?

3 MR. DANIEL: Please present the juror.

4 CLERK OF COURT: What says the Defense?

5 MR. LAUBSHIRE: Please excuse the juror.

6 CLERK OF COURT: Have a seat. Thank you. Number 73,

7 Austin Lanier. What says the State?

8 MR. DANIEL: Please present the juror.

9 CLERK OF COURT: Any challenge for cause by the
10 Defense?

11 MR. LAUBSHIRE: Please swear the juror.

12 CLERK OF COURT: Come forward and have a seat.

13 Number 123, Anne Smith. What says the State?

14 MR. DANIEL: Please present the juror.

15 CLERK OF COURT: Any challenge for cause?

16 MR. LAUBSHIRE: Swear the juror.

17 CLERK OF COURT: Come forward and have a seat.

18 Number 58, Harold Hunter. What says the State?

19 MR. DANIEL: Please present the juror.

20 CLERK OF COURT: Any challenge for cause?

21 MR. LAUBSHIRE: Please swear the juror.

22 CLERK OF COURT: Come forward and have a seat. Number

23 80, Robert Livingston, III. What says the State?

24 MR. DANIEL: Please present the juror.

25 CLERK OF COURT: Any challenge for cause?

1 MR. LAUBSHIRE: Please swear the juror.

2 CLERK OF COURT: You can come forward and have a
3 seat. Number 39, Dalton Fulmer. What says the State?

4 MR. DANIEL: Please present the juror.

5 CLERK OF COURT: Any challenge for cause?

6 MR. LAUBSHIRE: Please swear the juror.

7 CLERK OF COURT: Come forward and have a seat. Number
8 43, Mason Graham. What says the State?

9 MR. DANIEL: Please present the juror.

10 CLERK OF COURT: Any challenge for cause?

11 MR. LAUBSHIRE: Please swear the juror.

12 CLERK OF COURT: Please come forward and have a seat.
13 Number 96, James Morris. What says the State?

14 MR. DANIEL: Please present the juror.

15 CLERK OF COURT: Any challenge for cause by the
16 Defense?

17 MR. LAUBSHIRE: Please swear the juror.

18 CLERK OF COURT: Come forward and have a seat.
19 Number 97. Telina Morris. What says the State?

20 MR. DANIEL: Please present the juror.

21 CLERK OF COURT: Any challenge for cause?

22 MR. LAUBSHIRE: Please swear the juror.

23 CLERK OF COURT: Come forward and have a seat.

24 THE COURT: Two alternates, two and one on the
25 strikes. You may proceed.

1 CLERK OF COURT: Juror number 48, Dean Harmon. What
2 says the State?

3 MR. DANIEL: Please present the alternate.

4 CLERK OF COURT: What says the Defense?

5 MR. LAUBSHIRE: Please present the alternate.

6 CLERK OF COURT: You can come forward and have a
7 seat. Number 79, Joanna Little. What says the State?

8 MR. DANIEL: Please present the alternate.

9 CLERK OF COURT: The Defense?

10 MR. LAUBSHIRE: Please excuse the alternate.

11 CLERK OF COURT: Number 14, Justin Bradburn. What
12 says the State?

13 MR. DANIEL: Please excuse the alternate.

14 CLERK OF COURT: Juror number 22, Angela Chappell.
15 Any challenge for cause by the State?

16 MR. DANIEL: No challenge.

17 CLERK OF COURT: What says the Defense?

18 MR. LAUBSHIRE: Please excuse the alternate.

19 CLERK OF COURT: You can have a seat. Number 87,
20 Teresa Maybin. Any challenge for cause by the State?

21 MR. DANIEL: No challenge.

22 CLERK OF COURT: Any challenge by the Defense?

23 MR. LAUBSHIRE: Please swear the alternate.

24 CLERK OF COURT: You can come forward and have a
25 seat.

1 THE COURT: Thank you, Madam Clerk. Congratulations,
2 ladies and gentlemen, you have now been selected as the
3 trial jury in this case. What I want you to do for just
4 the next few moments, I am going to ask security to escort
5 you to the jury room. But typically that is the jury room
6 that we use pre-COVID. Then we started using the Grand
7 Jury room downstairs because it gives a little bit more
8 room. Once March 1st rolls around then we will start
9 using that again. But right now we will use the Grand
10 Jury room. Go downstairs and I will tell you a couple of
11 things to keep in mind. Don't begin any discussions about
12 anything related to this case. I realize you know very
13 little. But anything you have seen, heard, don't begin
14 any discussions about anything related to this case.
15 Those discussions don't start until I tell you to when you
16 get the case to begin your deliberations at the end of
17 this case. Talk about anything else but don't talk about
18 this case. Secondly, what I want you to do is select a
19 Foreperson of the jury. If it is a male, it is a foreman;
20 so a female is forelady. And I am confident that all 14
21 of you would make excellent foreperson's but we can only
22 have one. The role of the foreperson, one, I need a go
23 between and the jury and the Court. If at any time during
24 the course of this case there is an issue, question of
25 concern, anything that rises and it needs to be brought to

1 the Court's attention then I need the foreperson to
2 handwrite it out. There will be paper in the jury room;
3 handwrite it out, sign and present that issue or that
4 question concern to me. Certainly when you begin your
5 deliberations, if you have any questions that arise then
6 put it down on paper, sign it and it will be presented to
7 me. Secondly, while this is everyone's responsibility,
8 primarily the foreperson needs to make sure all of my
9 instructions are being followed such as the instruction I
10 just gave you, don't begin any discussions about this case
11 until I tell you to. And thirdly, when I do give you the
12 case to begin your deliberations in order to reach a
13 unanimous verdict I need someone to get those
14 deliberations started, oversee those deliberations,
15 oversee the vote taken by the jury concerning the verdict.
16 Now, the vote of the foreperson carries no greater weight
17 than the other 11 when deliberations begin. So I need
18 someone to wear that hat and what I want you to do is
19 select your own foreperson of the jury. Sometimes I
20 select them, some times my Law Clerk does; sometimes I
21 allow the jury to select. So do that and I will bring you
22 back up for further instructions. The two alternates can
23 participate in the election process of the foreperson.
24 And let me explain the role of the alternates. It is not
25 unusual for the Court to have to excuse a member of the

1 12; illness, emergency at home, that sort of thing. I
2 need someone then, if that happens, to step in the shoes
3 of that excused juror, someone who has been here
4 throughout the whole trial up until that point. And so
5 the role of the alternates are very important. And
6 lastly, and I mention this again, if at any time during
7 the course of this case you start feeling ill or feeling
8 like maybe you are experiencing some symptoms I need to
9 know that so don't hesitate to let me know that or the
10 Clerk know that. So if you will escort the jury
11 downstairs, take a minute or two to get to know each
12 other, elect your foreperson and then we will bring you
13 back up and more than likely we will break for lunch. So
14 go on downstairs, please.

15 (Whereupon, the jury was excused from open court.)

16 THE COURT: For the record, does the State have any
17 exceptions from jury selection.

18 MR. DANIEL: Your Honor, there is an issue with one
19 of the alternates, related to impartiality issue.

20 THE COURT: Okay. Let's me just see the lawyers
21 in-chambers and then we will figure out how we need to
22 address this issue.

23 (Whereupon, the Court and Lawyers are in-chambers.)

24 MR. DANIEL: Your Honor, we are going to withdraw our
25 objection on that alternate.

1 THE COURT: Okay. You still have one issue. Okay.

2 Ladies and gentlemen, this applies to you folks and
3 these folks. We have a legal issue that I am going to
4 have to deal with the attorneys over lunch. So we are
5 going to break for lunch now. Okay. You folks report
6 back to the downstairs room that you were just in. Okay.
7 You folks report back to the courtroom where you are
8 currently sitting. But I need to, it is 20 after 1:00.
9 Let's go to, let's be back here at a quarter to 3:00.
10 That will give almost about an hour and a half for lunch.
11 You folks downstairs when you get to the Court House and
12 you folks the courtroom. Okay. And that will give us
13 time to, us to get some lunch and also deal with the legal
14 issue that I need to deal with before we do anything else.
15 Again, no discussion about anything related about this
16 case. And anybody that you come in contact with over
17 lunch, whether it is a friend, neighbor, whatever. You
18 can tell them you have been selected on a jury but don't
19 discuss anything related to this case, don't do any
20 research, don't get on your phone, don't get on the
21 internet or social media to try to look anything up about
22 this case. And I will see everybody back at quarter to
23 3:00. Have a good lunch.

24 (Whereupon, the jury for the trial of the case; also
25 the remaining jury panel was excused from open court

1 for a lunch break.)

2 THE COURT: What we are going to do, we are going to
3 go ahead and take a lunch break. I know, Mr. Blackwell,
4 you want to address the Court and I am going to give you
5 every opportunity to do that. Mr. Laubshire, you have a
6 Batson motion that you need to make. I would like to go
7 ahead and break for lunch and then let's get back together
8 in about 45 minutes. That will give you enough time to
9 get a bite to eat. Does that work for everybody.

10 MR. BLACKWELL: I don't feel comfortable with my
11 lawyer right at this moment. I want to go back to the
12 jail.

13 THE COURT: Whatever procedure you need to follow, I
14 want him back when we start back. However y'all normally
15 do it, I do want him back and then we can make a decision
16 on what he wants to do.

17 (Whereupon, a lunch break was taken.)

18 THE COURT: We are back on the record in the State
19 versus Kendrick Blackwell. The State initially had an
20 issue with respect to one of the alternates, number, juror
21 number 87. The State has withdrawn that issue. The
22 Defense indicated in-chambers that he is going to move
23 under Batson. So, Mr. Laubshire, I will be glad to hear
24 from you and then we will process the three-step process
25 under Batson. So I will hear from you first.

1 MR. LAUBSHIRE: Thank you, Your Honor. May it please
2 the Court. I believe the issue comes up where we have
3 only two, actually three black jurors in the pool. And
4 two were selected for the jury, both stricken by the
5 State. The alternate ended up being, as a result of the
6 State being out of strikes, they had a motion on that
7 particular juror but that was withdrawn.

8 THE COURT: You are not suggesting and I certainly, I
9 didn't canvas the whole jury panel to determine how many
10 African Americans on the panel. You said there was only
11 three total?

12 MR. LAUBSHIRE: For the selection process.

13 THE COURT: For the selection process.

14 MR. LAUBSHIRE: We had a few more, some were excused.
15 So it is not fair representation of the population of
16 Newberry. We have twelve white jurors, there are black
17 people that live in Newberry. Also my client raised an
18 issue that every black, he said they were stricken by the
19 State. So we ask for a race neutral reason and also have
20 an opportunity.

21 THE COURT: So I want to make sure. Are you in a
22 Batson insofar as the State striking two African
23 Americans, list number two and list number ten.

24 MR. LAUBSHIRE: Yes, Your Honor.

25 THE COURT: Okay. Are you wanting me to quash the

1 entire jury panel based upon the number of African
2 Americans in the entire jury panel or you want me just to
3 deal with Batson insofar as the State's two strikes?

4 MR. LAUBSHIRE: I think a fair representation, Judge,
5 we are asking to quash the entire panel because the number
6 of black jurors we have to select from. And we have
7 twelve white jurors and I understand my client's position.

8 THE COURT: I understand, I just don't want to mix
9 apples and oranges because we have two, even somewhat
10 related, we have two separate issues if you are raising
11 both issues. Batson is limited strictly to the State
12 striking two African Americans from the jury. Batson is
13 not related at all to whether or not the jury panel was
14 representative of African Americans percentage that reside
15 in Newberry County. So we have got to have two separate,
16 again, related somewhat. So the fact that there are no
17 blacks currently on the trial jury is not a basis under
18 Batson. I would have to limit my inquiry solely whether
19 or not the State struck those two jurors for racially
20 neutral reasons or not. So let's deal with that and see
21 how that shakes out. And, again, I want to make sure if
22 you are wanting me to, because I don't know how many
23 African Americans were in the entire jury panel. Again,
24 that was just one of two panels. We let the first one go
25 to come back because they had been already waiting for

1 about an hour, it was going to take longer. So that was
2 actually the second group that we picked the jury from.
3 So I don't know how many African Americans were in there,
4 I don't know how many were in the first group. I just
5 don't know that, we can probably provide that information.
6 All right. So I will turn it over to the State under the
7 second part, to see what reason or reasons, I am using
8 list numbers, two and ten, why they were stricken from the
9 trial jury.

10 MR. DANIEL: Your Honor, I guess I would take
11 exception to members of a cognizable racial group. The
12 State only exercised three of our five peremptory strikes.
13 And one strike was used on, I believe, a Hispanic man.

14 THE COURT: Right.

15 MR. DANIEL: And the other two were for African
16 American jurors. Again, we certainly have racial neutral
17 reasons for exercising the strikes.

18 THE COURT: The fact that you struck an Hispanic, I
19 don't think comes into the mix because I think Mr.
20 Laubshire is only concerned with the striking of the two
21 African American jurors and not striking of any
22 non-Caucasian jurors, if I understand the Defense's
23 position. So I need to know your reason or reasons for
24 list number two and ten being stricken.

25 MR. DANIEL: Juror number 46, Judge. That is going

1 to be, that is going to be --

2 THE COURT: List number two.

3 MR. DANIEL: I am going by juror number.

4 THE COURT: Hold on just one second. We will refer
5 to them as juror numbers. Number 46 and number 6.

6 MR. DANIEL: Yes, Your Honor. Juror number 46 is, I
7 believe is Shameka Bates.

8 THE COURT: 46 is Shameka Hair.

9 MR. DANIEL: Yes, sir. 46 is Shameka Hair, Judge.
10 And the basis for that strike was simply related to her
11 multiple check fraud arrest. And as the Court is aware,
12 Judge, the Solicitor's office runs the worker's check
13 program and I believe I counted at least four separate
14 arrests for check fraud. There is case law directed on
15 point on that as a matter of exercising a strike. And I
16 just, I will put this on the record, Judge. As
17 prosecution by the Solicitor's office is an acceptable
18 racially neutral reason for exercising a strike, the State
19 v. Dyar, D-Y-A-R; 317 SC 77.

20 And moving on to the second.

21 THE COURT: Number 6.

22 MR. DANIEL: Number 6, Your Honor. That is Jeffrey
23 Bates. Black male juror, Judge. He and, again Judge, I
24 am not trying to have any undue embarrassment for this
25 juror. But he has some health related issues related to,

1 he disclosed in-chambers in front of the Court Reporter,
2 he has a condition that would make it very difficult to
3 sit for any length of time. I don't want to say what that
4 condition is necessarily to everyone. He did disclose it
5 to the Court. And he said that he has issues with that,
6 Judge, his current condition.

7 THE COURT: We are all grown up. He indicated
8 in-chambers that he had hemorrhoids.

9 MR. DANIEL: Yes, sir.

10 THE COURT: It makes it difficult. Even though, I
11 asked him, you know, I typically go about an hour and a
12 half before taking breaks. If he needed a break early he
13 could just raise his hand.

14 MR. DANIEL: Judge, but he also has several arrests
15 on his criminal background check, Judge. Even though, I
16 see a receiving stolen goods arrest back in 1994; coupled
17 with the fact that he did have that condition related to
18 his hemorrhoids, Judge. I just felt that it would not be
19 advantageous to sit him on this jury for those reasons.
20 Certainly had nothing to do with any type of
21 wholeheartedly racial neutral reasons.

22 THE COURT: And you said that he had some prior
23 arrests.

24 MR. DANIEL: Yes, sir. I see, it looks like a
25 receiving stolen goods arrest back in 1994 coupled with

1 the fact that he would be, I think uncomfortable sitting
2 for long periods of time in this trial; even though he
3 gave assurances that he could perhaps do that, Judge. I
4 felt he was too hesitant to really perhaps to be a good
5 juror in that sense.

6 THE COURT: Okay. Now, turning back over to the
7 Defense. And can the Defense present any jurors who were
8 actually seated having the same issues as the State
9 maintains juror number 46 and juror number 6 have.

10 MR. LAUBSHIRE: No, Judge. We can't meet that burden
11 of showing jurors that were selected that have that
12 effect. If we had the whole entire panel to select from
13 we might have gotten a different picture of the jury, than
14 we have with this group. We have all white jurors which
15 is the second issue which is totally separate from Batson.

16 THE COURT: Concerning Batson, I am going to deny the
17 motion. I find that the State has offered a racially
18 neutral explanation for striking those two jurors and that
19 the Defense has not met its burden of proof in that, there
20 was actually pretext offered by the State that jurors with
21 similar issues as those stricken were actually seated on
22 the jury. So I am going to deny the Batson motion.

23 Now, how many out of this group we picked from, how
24 many were African American. I am directing this to the
25 Clerk.

1 CLERK OF COURT: From the strike sheet?

2 THE COURT: When we look at it from the strike list,
3 31 from the strike list or are we looking at the entire
4 jury panel including those who were excused for whatever
5 reason. And, again, separate from Batson. Look at the
6 entire panel before I excuse anybody out of that group.

7 (Whereupon, the Clerk of Court researches jury list.)

8 MR. DANIEL: Your Honor, we have 8 out of 43 were
9 African American.

10 THE COURT: Total before any were excused?

11 MR. DANIEL: Yes, sir.

12 THE COURT: So what percentage is that. That would
13 be what, 20 percent. I have 42 total in the panel and how
14 many were African American, Solicitor?

15 MR. DANIEL: We had eight, Judge.

16 THE COURT: What I need to find out next, what is the
17 percentage population of African Americans.

18 MR. LAUBSHIRE: According to the most recent
19 consensus is 37,000 residents and 27.47 is African
20 American.

21 THE COURT: Okay.

22 MR. DANIEL: Your Honor, I have some case law on this
23 issue.

24 THE COURT: Hold that thought just a minute. 8 out
25 of 43.

1 MR. DANIEL: 8 out of 42.

2 THE COURT: 42.

3 MR. DANIEL: Yes, sir. Okay. Mr. Laubshire, the
4 last census you are looking at is, what is the percentage
5 of African Americans?

6 MR. LAUBSHIRE: 27.47 percent of the population in
7 Newberry.

8 MR. BLACKWELL: Excuse me, Judge.

9 THE COURT: Wait a minute, I will give you a chance
10 to speak, Mr. Blackwell. Let me kind of handle the
11 process here. Okay.

12 Solicitor, you have some case law dealing with this
13 issue we have got now. We had 19 percent in the panel
14 that are African American. Newberry County population is
15 27 and a half roughly.

16 MR. DANIEL: Yes. You just look at the number. They
17 are under represented by roughly 8 percent. It seems very
18 miniscule in the grand scheme of things. I am looking at
19 here on the Prosecutor's Desk book and it talks about
20 discrimination in jury selection must be proven. It
21 cannot be presumed. So in other words, to establish the
22 common facia violation of the fair cross section of
23 requirement for a jury panel the Defendant must show that
24 one, the group excluded is a distinctive group in the
25 community. Two, the representation of this group and the

1 venires from which jury's are selected is not fair and
2 reasonable in relation to the number of such persons in
3 the community. Again, 27 percent compared to 19 percent
4 reported. And, third, this under representation is due to
5 a systematic exclusion of the group in the jury selection
6 process. And I will reference, Judge, State v. Patterson;
7 324 SC 5, a 1997 case. State v. Ravanell, that is 387 SC
8 449, that is a 2010 Court of Appeals case. Judge, I think
9 on all prongs, except for prong number one, I think Mr.
10 Laubshire has got issues with, the systematic exclusion
11 prong, that third prong I read, Judge. I really, it is
12 hard for me to interpret what that means and how he would
13 prove such a systematic exclusion of black jurors. I
14 don't even know in this day and age how that can even be
15 done.

16 THE COURT: Well, I mean the summons are sent out at
17 random and so, would you agree at least one of the three
18 prongs, Mr. Laubshire, that you would have to prove some
19 sort of systematic conclusion insofar as how the juror
20 summons, those who are summoned, how they are selected and
21 the summons were sent out. Do you agree that that would
22 be a prong. Are you prepared to say either way at this
23 point.

24 MR. LAUBSHIRE: Judge, all I can say with any fair
25 representation to the Court, I am aware of exactly how

1 they select and send out those notices. But I am aware
2 that we can look at the jury pool and see what they have,
3 twelve white jurors. Two things cause that to happen.
4 First, it was the under representation of the cross
5 section which they are saying eight percent. Saying that
6 is small but it ain't small. This morning if our
7 retirement account went down by eight percent that would
8 be significant. Eight percent is actually a lot. And
9 really such a small portion of the population for some 27
10 percent, it actually isn't large. To have two more
11 excluded giving reasons by the State, that gives us zero.
12 So what we know is that we have systematic exclusion
13 whether it be by luck, chance, happenstance or some other
14 reason, we have a twelve person pool that is all white
15 people which is not cross section at all or even close.

16 THE COURT: All right. Can we determine out of the
17 first pool that we did not use, what is the makeup. Can
18 you figure that out.

19 CLERK OF COURT: We are figuring that out right now.

20 THE COURT: Okay. While you are doing that we are
21 going to go off the record. Let me see the lawyers in the
22 back and let's see if we can figure out something.

23 (Whereupon, a short break was taken.)

24 THE COURT: We are back on the record. I am going to
25 give Mr. Blackwell an opportunity to tell me whatever he

1 wants to tell me while the Clerk is working on getting
2 some more information as relates to this panel. And, so,
3 Mr. Blackwell, I am going to put you under oath because I
4 don't know that if we did that earlier. Madam Clerk, if I
5 can stop you for just a second and put Mr. Blackwell under
6 oath, please.

7 Kendrick Blackwell, being
8 first duly sworn, testified as follows:

9 THE COURT: If you will please stand, Mr. Blackwell.
10 Lower your mask off from your mouth. What would you like
11 to tell me.

12 MR. BLACKWELL: I would like to say my, if anybody
13 called from crime stoppers should be appeared while I am
14 on trial.

15 THE COURT: Tell me that again, I am sorry.

16 MR. BLACKWELL: I said last week, the week before.
17 Anybody that called in on crime stoppers, they have got to
18 be here present to testify against me and say whatever
19 they said.

20 THE COURT: I don't remember and I am going to ask
21 the lawyers. The last time we picked a jury did I ask in
22 voir dire about anybody doing anything about crime
23 stoppers and requiring them to appear. I don't recall any
24 of that.

25 MR. DANIEL: No, Your Honor. This is a bit

1 incoherent, I have no clue where that is coming from,
2 Judge.

3 THE COURT: Mr. Laubshire, do you remember anything
4 about that?

5 MR. LAUBSHIRE: No, Judge. It has to do with the
6 hearing we had in Laurens. About the tipster. He is
7 confused, I informed him about the Court's ruling that
8 there is going to be no disclosure in this case.

9 THE COURT: Okay.

10 MR. LAUBSHIRE: I think he is confused. I informed
11 him --

12 THE COURT: Isn't anything to do with crime stoppers
13 but it was a legal argument whether or not the State
14 should disclose the identity of a confidential informant.
15 And I ruled, based upon the facts and the law that they
16 would not be, a mere tipster as opposed to being a
17 material witness in this case. So I have already dealt
18 with that and made my ruling on that. So what else do you
19 have to tell me.

20 MR. BLACKWELL: So why would I be here, why --

21 THE COURT: The issue was whether or not the State
22 should be required to disclose a confidential informant
23 who is not going to testify in this case. You are not
24 being charged with anything arising out of any alleged
25 sale or distribution. You are charged with, as I

1 understand it, the State can correct me if I am wrong, you
2 are being charged with trafficking in methamphetamine
3 based upon the amount of drugs that were allegedly found
4 in your home.

5 MR. BLACKWELL: How was there a tip for them to come
6 there.

7 THE COURT: I have already made my ruling on that,
8 that they are not required to disclose the identity of any
9 confidential informant.

10 MR. BLACKWELL: They came to my house, I wasn't
11 present, I was in jail, they took me straight to jail. I
12 am looking at pictures, I wasn't no where around when they
13 came to my house.

14 THE COURT: I am sure that Mr. Laubshire will explore
15 anything that he believes will either be beneficial to you
16 or that he believes that will create a reasonable doubt in
17 the minds of the juror. So I am not going to speak
18 directly on what you just indicated. But, again, I
19 already made my ruling concerning the discloser of the
20 identity of the CI. I don't want to talk about that any
21 more. You got anything else you need to tell me, sir?

22 MR. BLACKWELL: Why the, the CI --

23 THE COURT: Mr. Blackwell, listen to me. I have
24 already made my ruling on that. And if I am in error in
25 making that ruling then I am sure Mr. Laubshire will take

1 that up in the higher court. But I have already made my
2 ruling on that.

3 MR. BLACKWELL: I don't feel like he is doing a good
4 job, I want to fire him and I would like to go back to the
5 jail.

6 THE COURT: Well, concerning firing Mr. Laubshire, I
7 am not going to relieve him as your attorney. I think you
8 will get the best representation possible by having him
9 remain on board in your case so I am going to deny that
10 request. Now, if you want to go back to the jail, do you
11 not want to be present during the trial proceedings?

12 MR. BLACKWELL: I am present now.

13 THE COURT: I know you are present. You just said
14 you want to go back to the jail.

15 MR. BLACKWELL: I don't feel comfortable with him on
16 my case.

17 THE COURT: I can certainly deny your motion to have
18 him relieved and so if you want to stay here I strongly
19 encourage you to remain with us.

20 MR. DANIEL: Your Honor, I guess to protect the
21 record. Would you be inclined to issue Mr. Blackwell the
22 Faretta warnings, give him the option of Faretta for Mr.
23 Laubshire. It is just to protect the record.

24 THE COURT: I don't think that is necessary because
25 he is not asking to be allowed to represent himself. He

1 is requesting that I relieve Mr. Laubshire and for him to
2 have another lawyer either hired or appointed. So I don't
3 think Faretta would necessarily be relevant to us. But
4 thank you for the request anyways.

5 I am going to put this on the record, Beth. So what
6 I want you to do is, the information that you disclosed
7 back in chambers, the information that you just gained
8 here, I want that on the record. In addition to you, or
9 either Ms. Brehmer explaining the jury summons process and
10 how that is done. So if you want, you don't need to be in
11 the witness chair but just, I need to have you sworn in.
12 Will you swear your employer in, please, Ms. Brehmer.

13 Beth Folk, being
14 first duly sworn, testified as follows:

15 THE COURT: You are Beth Folk who is the elected
16 Clerk of Court for Newberry County?

17 MS. FOLK: Yes, sir.

18 THE COURT: First explain for the record how the jury
19 summons process works from start to finish in Newberry
20 County, how that is done.

21 MS. FOLK: We have our court date and Beverly will go
22 in and put in our JMS system, she will put the date and
23 how many jurors we want to pull for court. And once she
24 does that we just hit the button to automatically select.
25 And once we select them, we have our list and we do

1 summons and then we will send our summons out. And once
2 we get our summons out then we will, they have so long to
3 send them back. But then they have so long to send it
4 back and when they come back we have our list, we check
5 them off and then we have popple calling to either be
6 transferred or they have age or most of them call and say
7 they have age and then we will excuse them. And but we
8 just keep up with it that way. And then whenever we get
9 about two weeks out we will give a list to the Sheriffs
10 Department and they will try to get in touch with them if
11 we don't have any summons back.

12 THE COURT: And is your system tied in with the
13 Department of Motor Vehicles.

14 MS. FOLK: Yes, sir. We get our jurors from the
15 Department of Motor Vehicle. And we have the license and
16 we have the ID and also voters registration.

17 THE COURT: Do you have any control whatsoever over
18 who is being initially summoned for jury duty?

19 MS. FOLK: No, sir. It is drawn automatically.

20 THE COURT: Okay. Drawn at random.

21 MS. FOLK: Yes, sir.

22 THE COURT: Okay. Now, concerning the panel that we
23 used to draw the jury, that was actually panel B that
24 showed up at 11:30. What was the break down on that.

25 MS. FOLK: We drew 150 and out of those it was 40

1 African Americans and 33 were excused for various reasons.

2 THE COURT: 33 excused total.

3 MS. FOLK: 33 excused total. And those were the
4 ones, we excused some and some did not show up. The break
5 down for that is that we had 11 that we excused; and we
6 had 21 did not respond back to us; and we had one that was
7 a no show.

8 THE COURT: Can you tell me that again, I didn't
9 quite get that.

10 MS. FOLK: Okay. We had 11 that we excused for age
11 or some of them were not Newberry County residents
12 anymore.

13 THE COURT: That is white and black?

14 MS. FOLK: Yes, sir. No, no, this is just black.

15 THE COURT: Okay.

16 MS. FOLK: African Americans.

17 THE COURT: 11 excused because of age or --

18 MS. FOLK: Most of them were age or some were not a
19 resident of Newberry County.

20 THE COURT: Okay. So 11 out of 40 were excused for
21 age or out of county or other reason's totally unrelated
22 to their race.

23 MS. FOLK: Yes, sir. And then we had 21 African
24 Americans who did not respond, we did not get a summons
25 back at all.

1 THE COURT: So just to reiterator, out of that panel
2 B. 150 summons were sent out; 40 of those summons dealt
3 with black jurors. So that would be about a 27 percent
4 figure I think we determined. And then out of the 40
5 black summons, 11 were excused for age or other reasons
6 unrelated to race; and 21 of those black summons never
7 responded.

8 MS. FOLK: Right and we had one that was a no show.

9 THE COURT: Okay. I am going to allow the question,
10 Solicitor, do you have any questions for the Clerk of
11 Court?

12 MR. DANIEL: No, Your Honor. This is Mr. Laubshire's
13 motion, if he has anything.

14 THE COURT: Mr. Laubshire.

15 MR. LAUBSHIRE: Do you know how many white popple or
16 other races were excused forthcoming. I know we had 40
17 that were black and 33 were excused.

18 THE COURT: 33 were not excused. 11 were excused and
19 21 just didn't show, no response.

20 MR. LAUBSHIRE: Correct. Of those do you have
21 similar statistics for the other races as well as far as
22 white people.

23 MS. FOLK: No because I just figured it up but I can
24 if the Judge request it.

25 MR. LAUBSHIRE: In order to compare the numbers,

1 Judge, to see if there is some kind of systematic
2 exclusion we have something to prepare it to.

3 THE COURT: Yes, if you can work on that. We will be
4 at ease.

5 (Whereupon, a short break was taken.)

6 THE COURT: Madam Clerk, you were asked for the same
7 information for white or other race. Presumably that
8 would be 110 of white or other summons sent out, is that
9 correct?

10 MS. FOLK: Yes, sir.

11 THE COURT: And now many were excused for non-race
12 issues, for age and that sort of thing.

13 MS. FOLK: Okay. We had, out of 105 we had 47 that
14 were excused for just reasons, age and other stuff.

15 THE COURT: And how many did not respond.

16 MS. FOLK: 21 did not respond.

17 THE COURT: How many?

18 MS. FOLK: 21.

19 THE COURT: 21.

20 MS. FOLK: Yes, sir. And we had four no shows.

21 THE COURT: Four no shows.

22 MS. FOLK: Yes, sir. And the Hispanics, we had --

23 THE COURT: So how many whites then. So how many
24 white summons were sent?

25 MS. FOLK: 105.

1 THE COURT: And 5 Hispanic.

2 MS. FOLK: Yes, sir.

3 THE COURT: And how many were excused?

4 MS. FOLK: None of them were excused. We had three
5 that did not respond and we had two no show.

6 THE COURT: Okay. Two no shows.

7 MS. FOLK: Yes, sir. No, two shows.

8 THE COURT: Okay. I got you. Okay. Based upon,
9 based upon these numbers I think we have to look at the
10 percentage of blacks insofar as jury summons being sent
11 out compared with the black population of Newberry County,
12 is almost identical, 27 percent. And the same, it appears
13 that the percentages are very similar, not to say the
14 prorated or based upon the number of the black summons sent
15 out and the number excused or did not respond in
16 comparison with whites as far as excused or did not
17 respond, well it seems like the same number for the white
18 and black did not respond. But so far as being excused
19 percentage wise it would look like there was a consistency
20 there. I don't find that there has been enough presented
21 to the Court to make a finding of systematic exclusion of
22 black jurors unless, Mr. Laubshire, you have anything else
23 to present to the Court, that I am going to deny your
24 motion to quash the panel. I recognize that it is, well
25 it is somewhat uncommon for there to be an all white jury.

1 But I think as it has been noted, there is not a
2 necessarily absolute right to not have a one racial jury.
3 Again, Mr. Laubshire, unless you have anything else I am
4 going to deny your motion to quash the panel.

5 MR. LAUBSHIRE: Thank you, Your Honor.

6 THE COURT: So here is the plan. We are going to
7 start the case in the morning. I am going to ask that
8 the, this group be brought in first. Keep the trial jury
9 where they are but I want this group brought in.

10 (Whereupon, the remaining jury panel entered the
11 courtroom and were excused at approximately 3:55
12 p.m.)

13 THE COURT: Let's bring the trial jury in.

14 (Whereupon, the trial jury entered the courtroom at
15 approximately 3:56 p.m.)

16 THE COURT: Let me first apologize to you for keeping
17 you in the jury room for well over an hour, an hour and
18 fifteen minutes, had some issues I had to deal with. And
19 sometimes that requires me to keep the jury waiting. I
20 apologize for that but I thank you for your patience. It
21 is late in the day, we will start back at 9:30 in the
22 morning with the case. I stopped you early on about
23 electing the foreperson of the jury. I want that to start
24 back in the morning, get here no later than 9:15 to get
25 your foreperson selected. And whoever that is, have that

1 foreperson write their name on a sheet of paper. Get some
2 rest tonight. One thing is for jury's to be alert and
3 attentive and get a good nights rest. No discussions
4 among yourselves and no discussions with anybody you come
5 into contact with this evening break. Don't go on the
6 internet or social media, don't try to do any research in
7 this case. We will see you back at 9:30 in the morning.
8 Get here at 9:15 so you can get a foreperson selected.
9 Have a good evening.

10 (Whereupon, the trial jury was excused for the day.)

11 THE COURT: Gentlemen, unless we need to put anything
12 on the record we will recess until 9:30 in the morning.

13 (Whereupon, the trial will resume the next morning at
14 9:30 a.m.)

15 February 23, 2022.

16 THE COURT: We are back on the record and the email
17 of February 16th indicated my rulings on the pretrial
18 matters. I am making this a Court's exhibit so the record
19 will be complete concerning my pretrial rulings. Okay.

20 (Whereupon, Court's Exhibit 1 was marked for
21 identification only.)

22 THE COURT: Anything else before we bring the jury
23 out to get started, from the State.

24 MR. DANIEL: Your Honor, what we talked about off the
25 record concerning an additional State's witness, Allison

1 Cooper, voir diring the jury, whether they know her,
2 immediate family, that sort of thing.

3 THE COURT: That is what I plan to do. Any problems
4 with that?

5 MR. LAUBSHIRE: No, Judge, no objections at all.
6 There is an issue that I spoke to the Prosecutor about.
7 Is we do have an objection to the introduction of the
8 firearm and the photo of the firearm in this case. It has
9 been, it is on the list of exhibits to be shown to the
10 jury discussing the case. The case is about trafficking.
11 We have no issue with the drugs and the issue of scales.
12 But he is charged with trafficking. We think is more
13 prejudicial than probative. It has nothing to do with
14 whether or not he has some drugs.

15 THE COURT: Why don't we do this. If the State still
16 intends to try to offer that into evidence, just give Mr.
17 Laubshire the heads up and we can deal with it then. I
18 want to get going with the jury. Let's bring the jury in.

19 (Whereupon, the jury entered the courtroom at
20 approximately 9:50 a.m.)

21 THE COURT: Let the record reflect the jury is back
22 in. Good morning, ladies and gentlemen. Everyone feeling
23 well and doing okay. Have you elected a foreperson.

24 MS. SMITH: We have.

25 THE COURT: And your name, Ma'am.

1 MS. SMITH: Anne Smith.

2 THE COURT: After we take a break and come back in
3 maintain that front seat there. You will maintain that
4 seat throughout the rest of the trial. And the alternate
5 in the back, I will tell you about the other alternate in
6 just a minute, keep that seat the whole time. The rest of
7 you can sit where ever you like in the chairs. It has
8 been my experience more times than not, jurors like to sit
9 in the same seat throughout the trial. Kind of like a
10 church, you have got your same seat in the church and that
11 is where you sit. You can do that if you like but you
12 don't have to. The Forelady has an assigned seat, the
13 Alternate has an assigned seat and you can sit where ever
14 you like. Okay. The other Alternate, Dean Harmon, called
15 the clerk this morning. He indicated he was not feeling
16 well, a lot of congestion, chest congestion. I don't know
17 what he has, he is going to be tested, he is going to the
18 doctor this morning and will let us know. We will let you
19 know. If he were to test positive for COVID, I don't
20 think necessarily that would be a reason to stop the
21 trial. But just to make you aware of what his results
22 are. And then we have a lady in the jury panel who did
23 test positive for COVID yesterday. And so anyways,
24 something we are living with but hopefully we are on the
25 tail-end of all of this mess and we can put it behind us.

1 I need to have you sworn in as the trial jury. Madam
2 Clerk.

3 (Whereupon, the jury was sworn at approximately 9:55
4 a.m.)

5 THE COURT: Ladies and gentlemen, there was one
6 witness name that was inadvertently left off the list that
7 was provided to me. That witness is Allison Cooper. So I
8 need to ask you the same question. Any member of the
9 trial jury related by blood or marriage either now or
10 formerly to Ms. Allison Cooper. Or any member of the
11 trial jury have or had in the past a close, personal or
12 social relationship with Allison Cooper. If you have or
13 knew raise your right hand.

14 (No response.)

15 THE COURT: No hands were raised. Ladies and
16 gentlemen, before the lawyers start their opening
17 arguments. I want to just give you some preliminary
18 instructions, things to think about. You remember
19 yesterday I told you to get a good nights rest. It is
20 very important that you be alert and attentive at all
21 times. This is not going to be an unusually long case but
22 you need to be alert and attentive so when I do give you
23 the case to begin your deliberations collectively you will
24 have a real good memory of what has been presented to you.
25 Individually, you may not remember everything;

1 collectively you will be able to remember everything
2 brought out to you. I don't allow note taking by a jury.
3 I found that sometimes when you are note taking you are
4 paying more attention to the note taking than you are to
5 what is testified to or what is being argued by the
6 lawyers. So be alert, be attentive. At any time you need
7 to take a break and I have not taken one all you have to
8 do is raise your right hand and I know what that signal
9 means and we will take a break at that time. Okay. Keep
10 in mind that Kendrick Blackwell who is seated here in the
11 courtroom is presumed innocent. That presumption of
12 innocence will remain with him throughout this entire
13 proceeding. The burden is on the State of South Carolina
14 to prove Mr. Blackwell guilty beyond a reasonable doubt.
15 As I told you yesterday, I will explain more about that at
16 the end of the case. So Mr. Blackwell doesn't have to
17 prove anything whatsoever because the burden is totally on
18 the State to prove him guilty beyond a reasonable doubt.
19 So keep that in mind. And as I told you also, ladies and
20 gentlemen, about no discussions among yourselves, no
21 discussion with anybody you come into contact with during
22 a break and no independent research into this case or
23 anything related to this case by way of internet or social
24 media and the like. Several years ago in Laurens where my
25 chambers is located we were trying a very significant case

1 and I gave that same instruction to the jury. And
2 unfortunately we had three jurors that actually googled
3 the Defendant's name and obtained some information that
4 could have been very damaging if we had not found out
5 about it before a verdict was reached. So they completely
6 disregarded my instructions. The fact that you are
7 prevented from doing that is because that is information
8 that you are getting outside of this courtroom. While
9 that information more than likely is going to be false
10 information or inadmissible information, it is information
11 outside of this courtroom. And your verdict, ladies and
12 gentlemen, has to be based one-hundred percent on what you
13 brought out in this courtroom. So that is why there is
14 that prohibition against going on the internet or social
15 media or the like and trying to find out anything related
16 to this case. After the case is over with have at it but
17 while this case is going on please do not do that. And
18 you don't want to get in trouble like those jurors did.
19 Okay. And lastly, ladies and gentlemen, keep an open
20 mind, don't make any quick decisions about this case.
21 Keep an open mind until all of the evidence is presented,
22 the lawyers have made their closing arguments and I have
23 instructed you the law that you are to apply to this case.
24 But before that keep an open mind. Okay. Now, the
25 lawyers are going to make their opening arguments to you.

1 These arguments are not evidence, it is just what they
2 believe the evidence will show what they believe this case
3 is about. And, Solicitors, where are we going to be
4 positioned concerning arguments. I know last time, maybe
5 had a podium.

6 MS. BOYKIN: Judge, I think we will be standing about
7 right there and I can move that podium over.

8 THE COURT: Does it suit you, Mr. Laubshire?

9 MR. LAUBSHIRE: Yes, Your Honor.

10 THE COURT: So they will be distanced enough to where
11 they will not be wearing their masks. If for some reason
12 they have to get closer to you or have to approach a
13 witness then they will put a mask on. But if they are
14 going to keep a distance back here I think they will be
15 okay not to have a mask on. You may proceed, Solicitor.

16 MR. LAUBSHIRE: May we approach, Your Honor.

17 THE COURT: Yes.

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

21 THE COURT: I think we are ready to go now.

22 Solicitor Boykin.

23 MS. BOYKIN: Thank you, Your Honor, may it please the
24 Court.

25 THE COURT: Certainly.

1 MS. BOYKIN: Good morning, ladies and gentlemen. So,
2 as you just heard from the Judge, we are going to be here
3 hopefully for a pretty short trial, hopefully a pretty
4 straightforward case. As you heard from the Judge, read
5 the indictment to you yesterday, Kendrick Blackwell
6 sitting right there is charged with trafficking over 28
7 grams of methamphetamine on January 30th of 2020. Okay.
8 So it should be a pretty straightforward simple case. I
9 hope that tomorrow morning at the latest is when we can
10 get the case to you. But just because it is a short case
11 does not mean that it is not important. This case is very
12 important to all parties concerned. It is important to
13 the State of South Carolina; important to the Defendant,
14 Kendrick Blackwell; and it is important to the County of
15 Newberry. All jury trials are important, they are the
16 cornerstone of the American Democracy. We all have a
17 right to a jury trial, we have the right to be tried by a
18 jury of our peers. And that is you guys, 12 or 13
19 citizens from Newberry County sitting here listening to
20 the evidence presented by the State and you ultimately
21 will come up with a verdict. And a verdict is what speaks
22 the truth. You will find at the end of this case whether
23 you find the Defendant guilty or not guilty and you will
24 review the evidence and make that decision. And I tell
25 you this early on because I want you to know that, as the

1 fact finders, as you heard, the Judge will instruct you
2 about the law in the case but you are the finders of fact.
3 I need you to understand that you 13 are not chosen at
4 random, okay. You were picked on this jury for a
5 particular reason. All of you come from different
6 backgrounds, different life experiences, different
7 upbringings I am sure. But you all have life experiences
8 that all lead to one very common thing. You all have
9 common sense, you all have logic. And I will circle back
10 to this later on but I wanted to tell you that at the
11 outset on something very important. And that is do not
12 check your common sense at the Court House doors. Okay.
13 You have had your entire lives and this courtroom is
14 absolutely no different. In fact, I submit to you that it
15 is more important today that you use that common sense.
16 You look at the evidence presented to you and you see what
17 is actually there, see what is in front of you and look at
18 common sense and logic. And when something appears to be
19 what it is, that is what it is. So let's go over the
20 facts that I expect you will hear throughout the course of
21 this day, testimony and evidence that we will present to
22 you. So January 30th of 2020, as you have heard, officers
23 of the Newberry County Sheriffs Office, they go to [REDACTED]
24 Highway 219 here in Newberry County. They go there to
25 execute a search warrant and essentially what that means

1 they had a warrant from a Judge to go to this residence,
2 [REDACTED] Highway 219 where Kendrick Blackwell resides and they
3 go there to search for items for evidentiary value. And
4 low and behold do they find some. So on that day, January
5 30th around 2:30 that afternoon officers from Newberry
6 County Sheriffs Office and SLED go out there, they go to
7 Mr. Blackwell's home, knock on the door and he is there,
8 he is home. Kendrick Blackwell, the Defendant is home as
9 well as one of his relatives, Iyeshia Sims. And you will
10 hear more about her later as the trial progresses. But
11 you will know that there were two people there at the home
12 including the Defendant, the person that lived at the
13 residence. Now, throughout the course of this trial you
14 are going to hear from Lieutenant Michael Stribble. He is
15 the lead investigator on this case. He is a seasoned law
16 enforcement officer. He has been doing this job for a
17 very long time and he is here to explain to you the
18 process of how to go get a search warrant, to execute it
19 to go search the house. You are going to hear about all
20 the different locations they searched throughout the house
21 and what they found. And you are going to hear that they
22 found numerous items that are associated with illegal drug
23 trade. You are going to hear that they found multiple
24 scales, meaning scales for you to weigh something on. You
25 will hear there were multiple scales found. You are going

1 to hear there were multiple baggies found. That is
2 baggies so that people can put the dope in there and weigh
3 it on the scale. You are going to hear that money was
4 found. You are going to hear that razors were found for
5 cutting drugs. You are going to hear, of course, a large
6 amount of drugs were also found in the home. That is what
7 he is charged with, trafficking methamphetamine. You will
8 hear that these baggies were found throughout different
9 locations of the Defendant's home. Some were found in the
10 kitchen, some were found in his bedroom. And actually you
11 will hear more testimony today about what further links
12 the Defendant, Kendrick Blackwell, to living at this
13 residence. You will hear evidence about his social
14 security card being there, that he had an electricity bill
15 there, all in his name. You will hear this evidence that
16 puts him as the person that lives at this residence. Like
17 I said, there were multiple baggies of drugs found. Those
18 are then sent off to SLED and that is what law enforcement
19 does. They send these bags of drugs off so they can be
20 tested to figure out exactly what controlled substance
21 they are. They also get them sent off to figure out the
22 exact weight of them. And you will hear testimony from
23 that analyst today, she will be here to testify and
24 explain to you exactly what she found during the course of
25 her analysis. And I expect she will tell you that what

1 she found is that Kendrick Blackwell, the drugs that were
2 found at his house was roughly 28 and a half grams of a
3 methamphetamine mixture. Now what that means and what I
4 expect she will testify to is that of these multiple
5 baggies some of them had different compounds, different
6 mixtures but they all had one common denominator. And
7 that is they all had methamphetamine. Okay. So and under
8 the law that is all you need. It is a methamphetamine
9 mixture. So you have roughly 28 and a half grams of
10 methamphetamine. That is a lot of drugs, guys. And that
11 is why the legislature has made that, when you get that
12 weight, that is why that is called trafficking in
13 methamphetamine. So let's go to the elements of that
14 crime. So trafficking methamphetamine, what he is charged
15 with, I know TV's and movies, I think when you think of
16 trafficking you think someone driving drugs across the
17 State line or something like that. But in South Carolina
18 it is different. There are multiple ways you can be
19 guilty of trafficking drugs. You can distribute them, you
20 can manufacture them, you can buy them, sell them or you
21 can possess them. If you possess a certain amount of
22 weight of drugs then you are trafficking in those drugs.
23 So in Kendrick Blackwell's case, if you possess over 28
24 grams of methamphetamine then you are guilty of
25 trafficking methamphetamine. So those are the two

1 elements that we have to prove to you, weight and
2 possession. So weight, as I said, would be over 28 grams.
3 And as I said, the analyst will testify that there was
4 roughly 28 and a half grams of methamphetamine. And
5 possession is another term of art you will hear more
6 about. But there are two ways in South Carolina that you
7 can possess something. For example, actual possession is
8 I have this pen in my hand right here. Okay. I am
9 actually possessing this, it is on my person, it is my
10 pen, it is on me right now and I am in actual possession
11 of it. Okay. But another example of the equal but
12 different type of possession is called constructive
13 possession. My purse back in my office here, it is still
14 my purse, it is not on me right now but I am in
15 constructive possession of it. I still have domain and
16 control over that purse, still I have possessory rights to
17 that. The same thing with my cell phone right over here
18 on the table. It is sitting there with my laptop, you
19 have evidence to see that all the items surrounding my
20 phone are mine. That phone is still mine, it is not on me
21 but I, just because I don't have it on me doesn't mean I
22 give up the right to possessing that phone, it is still
23 mine. And that is what constructive possession is and
24 that is what we have in this case. If you look at the
25 drugs and where they are found in the bedroom, in the

1 kitchen. They are all surrounded by things that would tie
2 Kendrick Blackwell to this home. And that is constructive
3 possession, ladies and gentlemen, it is that simple. So
4 you heard the Judge mention, we have to prove to you these
5 elements beyond a reasonable doubt. And that is another
6 term I know we have heard a lot about in TV and movies and
7 things. But really what that means is proof that leaves
8 you firmly convinced that the Defendant did what he is
9 accused of doing. It is beyond a reasonable doubt but it
10 does not mean that it is beyond all doubt. Because you
11 can have doubts in life, there are very few things in this
12 world we know with one-hundred percent certainty. And the
13 law in South Carolina does not require that. The doubt is
14 reasonable. And I submit to you at the end of this trial
15 we will have proven to you beyond a reasonable doubt that
16 Kendrick Blackwell possessed over 28 grams of
17 methamphetamine on January 30th of 2020. Okay. And when
18 I say reasonable doubt, that is where your common sense
19 comes back into play. Okay. Hold onto that and look at
20 the evidence for what it is, don't try, if the defense,
21 and that is what their job is try to muddy the waters.
22 Just look at what the facts are, use your common sense,
23 your logic. And I just ask that at the end of this you
24 just hold onto that thought. Now I am about to sit down,
25 ladies and gentlemen. I want to thank y'all for being

1 here, jury service is very important and very thankful for
2 y'all being here today. I would again ask for you to pay
3 attention, listen closely to the evidence presented, the
4 testimony from the witness stand that you will hear today.
5 And, again, remember you are the fact finders, you are the
6 ones who get to decide the testimony and the evidence,
7 what it means and you apply it to the law. Use your
8 common sense, your logic and you are going to, at the end
9 of this, go back to that jury room and you are going to
10 apply that common sense and reach a verdict that speaks
11 the truth. And at the end of this trial we are going to
12 ask you to find that one and only true verdict and that is
13 going to be guilty of trafficking in methamphetamine.
14 Thank you.

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

17 MR. LAUBSHIRE: May it please the Court.

18 THE COURT: Certainly.

19 MR. LAUBSHIRE: Good morning, ladies and gentlemen.
20 We had an opportunity to meet yesterday and I told you my
21 name is Michael Laubshire, I represent Mr. Blackwell in
22 this case. As you heard just recently this morning, this
23 is a trafficking case, trafficking drugs case. It is a
24 serious crime, serious penalties, it is a serious matter.
25 Now, Mr. Blackwell is charged with this. Now, trafficking

1 in drugs is very bad and it sounds bad and no one is here
2 to tell you that it is good. But as bad as it is and as
3 serious as it is, I can think of something much, much
4 worse. What is much, much worse is having to sit through
5 a trial of something you are accused of that you, in fact,
6 didn't do. That is a lot worse than trafficking. Now, we
7 are lucky to live in a place where we get this opportunity
8 to have a trial. So I don't want to take away from that.
9 The Prosecutor told you all about how important that part
10 of this case is, how important it is to have a trial, have
11 a jury sit and weigh these facts and consider all the
12 evidence and make a decision in this case. And before we
13 get started we have got to understand the important thing
14 about this trial. A trial, when you think about this case
15 and the Judge told you who was charged and what he was
16 charged with. That is important information too. But the
17 most important thing about this trial is whose trial is
18 it. And if you think in your mind right now to yourself,
19 whose trial is this. And what comes to your mind is Mr.
20 Blackwell, that would be incorrect. And as the Judge told
21 you and the Prosecutor told you, this is their case, this
22 is their day in court to prove to you the facts of their
23 case. The State is actually the one on trial. As a
24 matter of fact the case is captioned the State versus Mr.
25 Blackwell. And at the very beginning of the case the

1 Judge told you something very important, that he is
2 presumed innocent in this case and they must prove all the
3 elements of this case beyond a reasonable doubt. And the
4 State knows that and they know what kind of case they
5 have. And that is why they opened up with their opening
6 statement talking about things like common sense, use your
7 common sense. I am going to insult you with things like
8 that because the only time you ever heard that in your
9 life is probably somebody trying to sell you something you
10 shouldn't be buying and they know that. That is why they
11 put that out there, they want you to use the so called
12 common sense. Just look at things for what they are.
13 Like when you go to the circus and the guy lifts up a
14 thousand pounds, just trust him, it is a thousand pounds.
15 I bet if you went over there and touched it, moved it you
16 will find out it probably weighs less. That is what this
17 case is about, really what it is about. It is about
18 looking at this evidence and not just taking it at face
19 value, really examining it and looking at it carefully,
20 moving it around, touching it, making sure it is not
21 weightless like the weights he used at the circus. Mr.
22 Blackwell doesn't have to prove anything, he doesn't have
23 to testify, he doesn't have to do anything in this case at
24 all. It is the State's case. Now opening statements are
25 not evidence but they are a bit like movie trailers.

1 Those things you go to the movies and they show you just a
2 few clips of what is happening and what is going to be
3 coming out and try to get your attention. The ones you
4 wish would just quit so you can get onto the movie that
5 you were there to begin with. A lot of what the
6 Prosecutor said is true to a degree, not as it relates to
7 Mr. Blackwell but as to when this happened, where it
8 happened, that the Sheriffs had a search warrant. And
9 armed with that search warrant went to that address that
10 she gave you which was [REDACTED] SC Highway 219. That is about
11 as far as we go with our agreement of the facts that the
12 Prosecutor presented to you. And that is where they
13 stopped telling you what was important in this case. They
14 only told you about the law, told you about how to apply
15 things when it comes to common sense and constructive
16 possession. But what they didn't tell you is about the
17 poorly executed hardly handled investigation, completely
18 one-sided in this case. They didn't tell you anything
19 about that. Not a single word. Now, I am asking you,
20 like in a movie trailer, to pay attention to those
21 irregularities and deficiencies in the investigation. It
22 will make all the difference in this case. And if you do
23 that at the end of the case you will find the only result,
24 for you to come back and give us a verdict of not guilty.
25 I want to thank you very much for your time. I have an

1 opportunity again to talk to you directly after the case
2 is over and to talk about the individual deficiencies,
3 errors and problems with this case. Just like a good
4 movie trailer, I don't want to spoil the whole movie, I am
5 going to end it right now to give you an opportunity to
6 hear things that are evidence which are the witnesses
7 testimony in this case. Thank you very much for your time
8 and attention. I will talk to you again soon.

9 THE COURT: Is the State ready to call its first
10 witness?

11 MR. DANIEL: We are, Your Honor. The State calls
12 Michael Stribble. And, Your Honor, I told Mr. Laubshire,
13 the purposes of displaying exhibits to the witness, I am
14 going to have my computer up there for the witness to
15 access the exhibits.

16 THE COURT: Okay.

17 Michael Stribble, being
18 first duly sworn, testified as follows:

19 DIRECT EXAMINATION

20 By Mr. Daniel:

21 Q You are Lieutenant Michael Stribble with the Newberry
22 County Sheriffs Office, correct?

23 A That's correct.

24 Q And how long have you been employed with that agency?

25 A Since May of '01, over 20 years.

1 Q So over 20 years and you are a Lieutenant, are you an
2 investigator detective?

3 A That's correct. I am actually over the investigators
4 now.

5 Q Okay. And how long have you been an actual
6 investigator or detective?

7 A Since 2013.

8 Q Okay. So you are not on road patrol, you are not out
9 there doing trafficking enforcement. But you have been in
10 investigations for, going on nine years?

11 A That's correct.

12 Q And specifically do you investigate certain types of
13 crimes?

14 A That's correct.

15 Q And what are those?

16 A Narcotics investigator.

17 Q And how long have you been doing narcotics, since
18 2013?

19 A Since 2013.

20 Q Okay. All right. So this is what this trial is
21 focused on, is drug related case. I want to take you
22 back, a little over two years now at this point, January
23 30th of 2020. Did you have an occasion on that particular
24 date to respond out to a residence located at [REDACTED] Highway
25 219?

1 A I did.

2 Q And what was that in reference to?

3 A It was in reference to a search warrant.

4 Q So you went to that location. And approximately what
5 time of day did you go to that location on January 30th of
6 2020?

7 A Approximately 2:30.

8 Q And that was, you had a search warrant in hand to
9 search that particular property?

10 A That's correct.

11 Q And tell the jury about the search warrant process,
12 if you could, just in general?

13 A In general, what it is is go see our Magistrate of
14 Newberry County and present the probable cause to him.
15 And then he signs it and we swear under oath what the
16 probable cause is. And then the search warrant will be
17 executed at that particular property.

18 Q So you have to, the search warrant has to be
19 supported by probable cause. So you have to go to a Judge
20 and get permission to get a search warrant?

21 A That's correct.

22 Q So does the Judge have to determine that there is
23 grounds to believe, I guess, drug related evidence would
24 be found at that particular location in the search
25 warrant?

1 A That's correct.

2 Q Okay. So that is why you go out there that day
3 because of the search warrant?

4 A That's correct.

5 Q And what kind of evidence did it authorize you to
6 search for and seize?

7 A Narcotics, whether it was paraphernalia.

8 Q My calendar, that looks like that would have been a
9 Thursday afternoon on January 30th of 2020?

10 A Yes, sir.

11 Q So you go out there and who all goes out there
12 besides yourself to carry out this search warrant?

13 A Major Dennis and other investigators that were with
14 us that day and a few SLED agents.

15 Q Okay. And so, maybe six or seven law enforcement
16 officers?

17 A Yes, sir.

18 Q And tell us, orient the jury to this location, where
19 is this exactly?

20 A This location is, if you get on 219, I don't know how
21 familiar everyone is, but going towards Newberry High
22 School, pass Newberry High School on your left; keep going
23 towards the interstate and this location is just past
24 Willingham's and Son's on the left. It is a mobile home
25 that sits off the road just a hair. [REDACTED] SC Highway 219.

1 Q So this is in Newberry County?

2 A That's correct, in Newberry County.

3 Q So it is a mile or so, would that be fair, past the
4 high school?

5 A Approximately, yes sir.

6 Q And is that right near the Komatsu Plant?

7 A Komatsu, Kiswire, Samsung also.

8 Q And when you arrived there with the officers with the
9 search warrant in hand to look for drug related evidence,
10 correct?

11 A That's correct.

12 Q Tell us how you go about that?

13 A The first thing we do is basically we knock on the
14 door and we try to get someone to, someone outside and
15 whatnot. And Kendrick was there along with one other
16 person. Major Dennis then starts reading the search
17 warrant to him. And also after the search warrant is
18 explained to him both he and the other subject there were
19 read their Miranda warnings. And both declined to talk to
20 us at that time.

21 Q And let me stop you there. You knocked and announced
22 your presence, correct?

23 A That's correct.

24 Q And did Kendrick Blackwell answer the door?

25 A He was there, yes sir. I don't remember if it was

1 him that answered the door. He was there at the property.

2 Q Did y'all have to make forceful entry into the
3 residence or did the door voluntarily come open?

4 A No, we opened, the door was opened. I don't remember
5 who was, I don't remember us actually knocking the door
6 in. I don't remember but I would have to look back at the
7 photos is what I am saying.

8 Q Access what has been marked for ID purposes as
9 State's number 5.

10 A Okay.

11 Q Do you recognize that?

12 A Yes, that is the residence.

13 Q Okay.

14 MR. DANIEL: Your Honor, I would offer State's number
15 5 for admission into evidence.

16 THE COURT: What says the Defense? You want to take
17 a look at it first?

18 MR. DANIEL: I am sorry. I thought Defense Counsel
19 had his computer.

20 MR. LAUBSHIRE: No objection, Your Honor.

21 THE COURT: Okay. And it may be helpful if maybe you
22 could position yourself somewhere because I think there is
23 going to be some more exhibits possibly offered by the
24 State so you don't have to, Solicitor Boykin, can you
25 maybe provide some assistance to Mr. Laubshire.

1 MS. BOYKIN: I have the printed ones here, I can just
2 hand him those.

3 THE COURT: Will that work for you, Mr. Laubshire?

4 MR. LAUBSHIRE: That is fine, Judge.

5 THE COURT: Number 5 into evidence for the State.

6 (Whereupon, State's Exhibit 5 was admitted into
7 evidence.)

8 Q Lieutenant Stribble, that is the mobile home
9 residence, [REDACTED] Highway 219, that is how it sits right off
10 the highway?

11 A Yes, sir.

12 Q It has got a long driveway?

13 A Yes, sir.

14 Q Let me show you, access State's number 6. Tell me if
15 you recognize that?

16 A Yes, sir.

17 MR. DANIEL: Your Honor, I offer State's number 6 for
18 admission into evidence.

19 MR. LAUBSHIRE: No objection, Your Honor.

20 THE COURT: Without objection number 6 into evidence.

21 (Whereupon, State's Exhibit 6 was admitted into
22 evidence.)

23 Q And what are we looking at there?

24 A That is Major Dennis explaining the search warrant to
25 Iyeshia Sims.

1 Q And who is Iyeshia Sims?

2 A She was the other subject present at the house the
3 day we executed the search warrant.

4 Q So in that picture you have Major Dennis; you have
5 Iyeshia Sims, the black female; and who is the other
6 individual in that photo?

7 A It is another officer, on the ground. Oh, I am
8 looking at the officer. Kendrick Blackwell, I am sorry.

9 Q At that point they appear to be detained?

10 A That's correct.

11 Q So they are in handcuffs, is that correct?

12 A That's correct. Both are detained.

13 Q Those are the only two subjects present when y'all go
14 to execute the search warrant?

15 A That's correct. And they are being explained the
16 search warrant right there.

17 Q And based on your investigation, who lived at that
18 property?

19 A Kendrick Blackwell.

20 Q Did he own the property or did he rent or what was --

21 A To the best of my knowledge he rented it, from what
22 we found out.

23 Q And you have access to property records, things of
24 that nature?

25 A That's correct. We have the, the mapping system,

1 Newberry County GIS which is the Geographic Information
2 System. It is a tax map, you guys have probably have seen
3 or seen or used it. And we are able to look up properties
4 that way and tell who the property owner is. And the
5 property owner was not Kendrick Blackwell.

6 Q Who was the property owner?

7 A Mr. Parr.

8 Q Full name?

9 A I think it is James Parr.

10 Q Okay. James Parr is the listed property owner?

11 A Yes.

12 Q And your understanding is that Kendrick Blackwell was
13 renting?

14 A That's correct.

15 Q So landlord/tenant relationship between the two of
16 them?

17 A That's correct.

18 Q Okay. But Kendrick Blackwell, on the day he executed
19 the search warrant, it was your understanding that he was
20 the tenant in possession of that property?

21 A That's correct.

22 Q If you could, look at State's number 7?

23 A Yes, sir.

24 Q Do you recognize that?

25 A It is the front door.

1 MR. DANIEL: Your Honor, I offer State's number 7 for
2 admission into evidence.

3 A [REDACTED] to the right of the front door.

4 THE COURT: And what says the Defense?

5 MR. LAUBSHIRE: Judge, we have no objection to
6 exhibit number 7.

7 THE COURT: No objection to number 7 so that is
8 admitted into evidence on behalf of the State.

9 (Whereupon, State's Exhibit 7 was admitted into
10 evidence.)

11 THE COURT: Now what?

12 MR. LAUBSHIRE: We have no objection to exhibits 8
13 through 20; and no objection to Exhibits 22 through 27.

14 THE COURT: So State's Exhibits 8 through 20, no
15 objection by the Defense. So those are into evidence.
16 And then 22 to 27, no objection. And those are into
17 evidence for the State. So we may have an issue with 21
18 and 28 we will need to discuss at some point in time.

19 MR. LAUBSHIRE: And, Judge, 29 through 31, no
20 objection.

21 THE COURT: Okay.

22 MR. DANIEL: Your Honor, what about 32 through 34.

23 THE COURT: Wait a minute, what was that. 29 through
24 31, no objection. And then you are inquiring about what,
25 Solicitor?

1 MR. DANIEL: Your Honor, 32 through 34.

2 THE COURT: Let's put our hands on 32 through 34.

3 MR. DANIEL: That is physical evidence.

4 THE COURT: 32 through 34, when we get to it then we
5 can -- so once again, just to refresh. 8 through 20, no
6 objection, it is into evidence. 22 through 27, no
7 objection, that is into evidence. 29 through 31, no
8 objection, that is into evidence. And 21 and 28 we will
9 deal with at some point in time; 32 through 34 we will
10 deal with at some point in time. Okay. Solicitor Daniel,
11 you are clear on that?

12 MR. DANIEL: Yes, sir.

13 THE COURT: Thank you.

14 (Whereupon, State's Exhibits 8 through 20; 22 through
15 27; 29 through 31 were admitted into evidence.)

16 Q Lieutenant Stribble, I am going to hand you State's
17 34. Tell me if you recognize State's 34.

18 A Yes, ma'am. I mean, yes sir.

19 Q What is that?

20 A It is Kendrick Blackwell's ID.

21 Q And where did you find that?

22 A In his residence, at [REDACTED] Highway 219.

23 Q Did you find it on his person or just somewhere in
24 the residence?

25 A I would have to refer back.

1 Q Okay.

2 A Just give me one second. From the subject, from
3 subject number one.

4 Q So that means that ID card was on his person?

5 A That's correct. From his person.

6 MR. DANIEL: Your Honor I offer State's 34 into
7 evidence.

8 THE COURT: And what says the Defense?

9 MR. LAUBSHIRE: No objection, Your Honor.

10 THE COURT: No objection, 34 into evidence for the
11 State.

12 (Whereupon, State's Exhibit number 34 was admitted
13 into evidence.)

14 Q So that is how you verified his identity?

15 A That's correct.

16 Q Did you take these photographs, some of these
17 photographs?

18 A I did take some of them, yes.

19 Q So before making entrance into the residence you are
20 looking for any type of drug related evidence, is that
21 correct?

22 A That's correct.

23 Q Let's go to number 8, Mr. Bentley. And you can pull
24 it up too on your computer. And this, these photographs
25 kind of provide a narrative of how you walked through the

1 residence. Is that fair to say?

2 A Yes, sir.

3 Q So that is you making entry into the residence?

4 A That's correct. It is basically an overview, we go
5 in and take an overview of what we see to begin with.

6 Q Number 9. Describe that, please.

7 A That will be the living room area of the residence.

8 Q Number 10.

9 A That is the kitchen area of the residence.

10 Q 14?

11 A That is another shot from the living room towards the
12 kitchen. The kitchen and the living room are very, right
13 next to each other.

14 Q Okay. So I guess at this point following these
15 photographs, do you see in plain view any drug related
16 evidence, just based on these photographs?

17 A Yes, sir.

18 Q Let's go to, well, let's go to 22.

19 THE COURT: Wait a minute, oh yes, 22 is fine.

20 Excuse me.

21 A Yes, sir.

22 Q Tell us about State's number 22?

23 A That is the bedroom area of the residence.

24 Q Okay. And did you base that, whose bedroom did you
25 believe that to be?

1 A Kendrick's.

2 Q Did you have any other information to suggest that
3 someone else actively resided there with Kendrick
4 Blackwell at that time?

5 A No, sir.

6 Q Okay. Let's go to number 23, please.

7 A Okay, I am on it.

8 Q And is there anything on the floor that you observed
9 of evidentiary value in that photograph, number 23?

10 A I must have hit the wrong button. That is, what it
11 is, that is a picture of what is on that table and also in
12 the floor. It is hard to tell, Taylor. That black gym
13 bag.

14 Q So there is something noteworthy about a black gym
15 bag?

16 A Black gym bag, yes.

17 Q Okay. That is number 23, correct?

18 A 23, yes sir. And then 24 is the gym bag.

19 Q 24, please, Mr. Bentley. I am assuming at that point
20 you and other officers examined the contents of that bag.
21 Is that correct?

22 A That's correct.

23 Q Go to 25, please. And please tell us what is being
24 observed in that photograph?

25 A A small plastic bag with some type of drug in it.

1 Q So that is a small plastic bag that is suspected drug
2 evidence?

3 A That's correct.

4 Q And what type of form is that in, that type of drug
5 evidence?

6 A Say that again, please.

7 Q What type of, how do you describe that type of
8 suspected drug evidence. What particular form?

9 A It is in a baggy.

10 Q What kind of substance?

11 A I can't tell from the light on it in that particular
12 picture.

13 Q Let's go to 26. How about that.

14 A Yes.

15 Q And you can zoom in on the computer if you are having
16 a little trouble seeing at an angle or look at the TV,
17 whatever you need to see better.

18 A Marijuana, I am guessing. It looks like a green --

19 MR. LAUBSHIRE: Objection, Your Honor. Can we
20 approach.

21 (Whereupon, a bench conference was held in the
22 presence of the jury but out of the hearing of the
23 jury.)

24 THE COURT: Ladies and gentlemen, I have got a legal
25 issue with the attorneys. Go to the jury room and we will

1 take a morning break. Don't discuss among yourselves and
2 we will get you back out shortly.

3 (Whereupon, the jury was excused from open court at
4 approximately 10:40 a.m. for a break.)

5 THE COURT: Okay. Mr. Laubshire, you made an
6 objection, had a very short sidebar, I have excused the
7 jury. You want to put your objection on the record.

8 MR. LAUBSHIRE: Yes, Your Honor. May it please the
9 Court. The witness showed a photograph of what appeared
10 to be some kind of substance and answer given by the
11 witness was marijuana. The only drugs they were talking
12 about was methamphetamine. And now we have this
13 discussion about marijuana. It appears to the jury there
14 are more drugs than he is charged with. This is
15 prejudicial to Mr. Blackwell now, we are hearing about
16 marijuana. Which the trafficking is bad enough and now
17 they have got testimony about marijuana on top of it.

18 THE COURT: Does the picture show marijuana or is
19 Lieutenant Stribble just mistaken.

20 MR. DANIEL: Your Honor, what is going on with the
21 computer, I am going to show him the zoom in function. It
22 is not a picture that depicts marijuana. I will move to
23 strike that. Your instruction is fine.

24 THE COURT: Right. I will give a curative
25 instruction and you also need to clear it up that he was

1 completely mistaken, that there was no marijuana in the
2 bag. And hopefully with those two things, that should be
3 sufficient to cure whatever potential prejudice that may
4 be there.

5 MR. LAUBSHIRE: Yes, Your Honor.

6 THE COURT: Let's take a break while the jury is out.

7 (Whereupon, a short break was taken.)

8 THE COURT: So before we bring the jury out
9 concerning this issue of marijuana. Are you going to move
10 to strike that answer and then I will give a brief
11 curative instruction.

12 MR. DANIEL: Yes, that would be my proposal. Yes,
13 sir.

14 THE COURT: Okay.

15 MR. LAUBSHIRE: Yes, Your Honor.

16 THE COURT: Is there anything else, evidentiary wise,
17 while the jury is out that we could maybe discuss. I know
18 that there is an issue about a gun or, I don't want to go
19 another ten minutes and then the jury back out again.

20 MR. LAUBSHIRE: Your Honor, there is that photo and
21 the actual gun and the photo --

22 COURT REPORTER: Judge, I can't hear him.

23 THE COURT: Take your mask down, please.

24 MR. LAUBSHIRE: The only issue we have is a photo of
25 the gun, photo number 28.

1 MR. DANIEL: Number 37 is the actual gun.

2 MR. LAUBSHIRE: And then we also have an objection to
3 photo number 21 which, it is a picture of a document. We
4 have an objection --

5 THE COURT: We have got three things. A picture of a
6 document, picture of a gun and the actual gun. Is that
7 right?

8 MR. DANIEL: Yes, sir.

9 THE COURT: What is the document?

10 MR. LAUBSHIRE: It is a Newberry Electric bill.

11 THE COURT: Okay.

12 MR. LAUBSHIRE: Objection is it is hearsay, it is a
13 photo of a document. So it is just a --

14 MR. DANIEL: Your Honor, that was a power bill that
15 was on the refrigerator with a magnet that Investigator
16 Stribble took a picture of. It has Kendrick Blackwell's
17 name on it and address. And it is a item of evidence. It
18 is not being offered for the truth of the matter asserted.
19 It is actually physical evidence that was memorialized by
20 a photograph.

21 THE COURT: Okay. Why would it not be offered for
22 the truth of the matter asserted, the matter asserted is
23 that he lived there and was the one who, you know, had
24 utilities in his name. Would that not be offered for the
25 truth of the matter asserted.

1 MR. DANIEL: Well, Your Honor, it is really a piece
2 of physical evidence, no more than a couch itself is a
3 piece, offered for the truth of the matter asserted, it is
4 a couch. We are offering it, this is a picture of
5 something that is hooked to his refrigerator. It is out
6 in the open.

7 MR. LAUBSHIRE: If you are, start taking pictures of
8 whatever is in evidence, exhibits. You wouldn't do that
9 with medical records.

10 MR. DANIEL: This is evidence of a crime scene that
11 links ownership of a house to Kendrick Blackwell.

12 THE COURT: Right.

13 MR. DANIEL: As if his work name tag would have been
14 on the refrigerator with a magnet.

15 THE COURT: Well then the ID that is already into
16 evidence, that would be an ID that was prepared and issued
17 by DMV.

18 MR. DANIEL: Yes, sir.

19 THE COURT: What would be the difference between the
20 DMV preparing the ID and that went into evidence without
21 objection. What would be the difference in that with the
22 power bill prepared by the utility company with his name
23 on it.

24 MR. LAUBSHIRE: There is a huge difference. With the
25 ID you have to give the police if they ask for it. It is

1 also used for identification. This is just a document,
2 happened to find that at the scene where he lived. This
3 is a document, not a identification, it is just a copy.

4 THE COURT: Here is what I am going to do. I will
5 reserve ruling on that, you may want to consider the
6 possibility of getting someone with the utility company.

7 MR. DANIEL: Your Honor, I was going to say, we
8 actually followed up based on the power bill on his
9 refrigerator. We followed up and got a certified
10 affidavit from the business records custodian at Newberry
11 Electric, they provided that affidavit coupled with a
12 power bill record showing power for that address in
13 Kendrick Blackwell's name. But it is important to show
14 the photo of what led to that.

15 THE COURT: I am going to have to look at all of
16 that. So what I suggest you do is if I am going to let
17 you get that in a manner in which you want to get it in, I
18 will allow you to recall Lieutenant Stribble. I need to
19 see the affidavit, I need to see the photograph and see
20 all of that. But I don't want to necessarily do it right
21 now. I will allow you to recall.

22 MR. LAUBSHIRE: I think there is an issue with the
23 affidavit.

24 MR. DANIEL: It is State's number 4, Judge. It is
25 just, as a matter of continuity to have this power bill

1 introduced through Investigator Stribble who took the
2 photograph. And that is why the Solicitor's office took
3 the following steps to obtain actual records to verify the
4 authenticity of that power bill, magnetic, hooked to the
5 refrigerator with a magnet.

6 THE COURT: Does Rule 902 and 19-5-520, does it
7 permit an affidavit?

8 MR. LAUBSHIRE: I don't believe it does for this
9 purpose.

10 THE COURT: Let's do this. When you are finished
11 with the Lieutenant, I haven't had a chance to look at all
12 of this, I will allow you to recall.

13 MR. DANIEL: What was the statute?

14 THE COURT: I would like to get the jury back in and
15 move forward. It is already, it is 11:00 o'clock and we
16 are still on the first witness. I don't want to mess up
17 the flow of how you want to present evidence with this
18 evidence. But I can't make a ruling on this objection, on
19 the utility bill without looking at what you presented to
20 me.

21 MR. DANIEL: Yes, sir. Your Honor, can he say, based
22 on his observation that he observed a power bill attached
23 to the refrigerator and it had Kendrick Blackwell's name.
24 What if he had had, for instance, what if he worked for
25 Samsung and had his name tag, Kendrick Blackwell, Samsung

1 employee on the refrigerator. I don't really see the
2 distinction of why that would be permissible and this is
3 objectionable.

4 MR. LAUBSHIRE: He needs to ask them to come in, lay
5 a foundation and make sure it is authentic and then do the
6 admissibility.

7 THE COURT: Give me 21 and I will put it with this
8 and i will take a look at it and i will make my ruling
9 after I have looked at this. And, again, I am allowing
10 you to recall him if I have not looked at this and you
11 have already finished with his testimony. Okay.

12 MR. DANIEL: Thank you, Your Honor.

13 THE COURT: We still have the photograph of the gun
14 and you want to get that in with him too?

15 MR. DANIEL: Yes, sir. And it is well established
16 through case law that there is always going to be a nexus
17 between drugs and guns. And we are also offering
18 paraphernalia in this case. Cutting board, razor blades,
19 digital scales, cash. It is all relevant in a drug case
20 to show these are items consistent with illegal drug
21 activity. And given that courts have frequently adopted
22 the approach, that there is a nexus between guns and
23 drugs. Just because we are not calling a specific weapons
24 charge, how would it somehow make it inadmissible.

25 THE COURT: Well, again, kind of the same with this

1 utility bill. We are looking at some cases right now as
2 it relates admitting of evidence of a gun in a drug case
3 and right now I am just not prepared to make a ruling on
4 the objection.

5 MR. LAUBSHIRE: Judge, if I can put this in the
6 record as far as his comparison, the scales and the gun.
7 The scales in and of themselves are not illegal per se. I
8 can own a scale. They are characterizing it as
9 paraphernalia, that is up to them. But guns could be
10 illegal in the hands of the right person. And in this
11 case they have charged him with that, but using that for
12 inflammatory purposes. And the prejudicial value heavily
13 outweighs the probative value. It has nothing to do with
14 it being drugs or not. What we are not suppose to be
15 doing is find him guilty based on that, he has a gun.

16 THE COURT: Again, without having the opportunity to
17 read some of the cases we have been looking at, I just
18 can't make a ruling at this point in time on that. So the
19 same thing is going to hold true, Solicitor, is that, if
20 you are finished with this witness I will allow you to
21 recall him if I do allow this to come in.

22 MR. LAUBSHIRE: They have no prejudice in this case
23 because they had a charge and they can try him on the gun,
24 they are not losing anything. They can move forward and
25 convict him on the guns all day.

1 THE COURT: I understand. Give me the photograph of
2 the gun, I don't need the actual gun, give me the
3 photograph of the gun and I am going to put it up here. I
4 mean, we can take another half hour or hour and me
5 studying on this. But I would prefer to do it like over
6 lunch break so we don't keep the jury out for a long time.

7 MR. DANIEL: Your Honor, it is going to be number 28,
8 is a picture of the gun. And then number 37 is the
9 actual, physical gun. And, Your Honor, the power bill,
10 the photograph of the power bill, the power bill at Mr.
11 Blackwell's residence, that is number 21.

12 THE COURT: 21, that's right. Okay. Let's bring the
13 jury out. What I will do, when you move to strike that
14 last answer then I will give a curative instruction to the
15 jury.

16 (Whereupon, the jury came into the courtroom at
17 approximately 11:07 a.m.)

18 THE COURT: Let the record reflect the jury is back
19 in. Solicitor.

20 MR. DANIEL: Thank you, Your Honor. And where we
21 left off, I would move to strike Lieutenant Stribble's
22 answer about marijuana from the record.

23 THE COURT: So granted. Ladies and gentlemen, the
24 witness' last answer concerning marijuana has been
25 stricken from the record. Therefore you are to completely

1 disregard that last answer and not have it into your
2 consideration at all as evidence in this case. You may
3 proceed.

4 MR. LAUBSHIRE: Judge, can we approach one second.

5 (Whereupon, a bench conference was held in the
6 presence of the jury but out of the hearing of the
7 jury.)

8 THE COURT: You may proceed, Solicitor.

9 CONTINUE DIRECT EXAMINATION

10 By Mr. Daniel:

11 Q Lieutenant, just to let the jury know why we are
12 striking the answer regarding marijuana from the record.
13 Go back to 24. We are pulling this up for the jury. This
14 is the Champion bag found on the bedroom floor, correct?

15 A That's correct.

16 Q You examined the contents of it?

17 A That's correct.

18 Q Go to 25, please, Mr. Bentley. And based on your
19 observation in State's 25, what is depicted in that
20 photograph?

21 A That is a bag containing a quantity of a white powder
22 like substance, approximately 11 grams.

23 Q Okay. So that was a field weight of a plastic baggy
24 of white powder substance?

25 A That's correct.

1 Q Okay. And did you observe any other plastic baggies
2 contained within that Champion pouch?

3 A That's correct. There was another plastic bag
4 containing a quantity of green, white/powder like
5 substance.

6 Q Go to 26. Describe that bag.

7 A This is the, that is the green and white powder like
8 substance.

9 Q So when I asked you what was in State's 26
10 previously, you first said marijuana but that was, we
11 agree that that is erroneous?

12 A That's correct. I made a mistake.

13 Q Okay. But you did describe that as being a greenish,
14 white powder?

15 A That's correct.

16 Q And because of the greenish tint to the powder, did
17 you mistakenly think that was marijuana?

18 A That's correct.

19 Q Thank you, Lieutenant Stribble. So that is two
20 baggies of powdery substance, correct?

21 A That's correct.

22 Q That you found thus far in your search?

23 A That's correct.

24 Q Go to 27. And, again what is that?

25 A That is just another picture of the white powder.

1 Q And how much, what was your, can you measure the
2 weight of that, what was the field weight?

3 A Approximately three grams.

4 Q And that includes the weight of the bag too?

5 A That's correct.

6 Q You didn't pour the substance out on a scale. You
7 kept it in the bag?

8 A No. The way things are now we try to be safe about
9 it and we leave it in the baggy.

10 Q And based on its appearance and your experience as a
11 drug investigator did you, at that point, just make a
12 determination of what you suspected the substance to be?

13 A That's correct.

14 Q What was it, what was your suspicion about it?

15 A Heroin.

16 Q Heroin?

17 A Yes.

18 Q Okay.

19 A Heroin, phenetol mixture.

20 Q And that was just based with the appearance with the
21 naked eyeball?

22 A That's correct.

23 Q Ultimately that was sent to the South Carolina Law
24 Enforcement Division drug lab, right?

25 A That's correct.

1 Q And do you know it to be the same substance as what
2 you thought it was originally or something different?

3 A Something different.

4 Q And what did that turn out to be?

5 A It turned out to be methamphetamine.

6 Q Okay. Let's go next to what you searched. Let's go
7 back to 14. Did you continue your search throughout the
8 house?

9 A That's correct.

10 Q What did you search next?

11 A The kitchen area.

12 Q Let's walk through the pictures. Go to 12, please?

13 A Yes, sir.

14 Q And what are we looking at in number 12?

15 A That is a, it is a photo showing a coffee mug, a?
16 And a couple of plastic bags and some type of drug
17 evidence.

18 Q Where is that exactly?

19 A That is the kitchen, above, like from the other
20 picture before, you can see that area in the kitchen, I
21 don't know what you call it, it is a cabinet right above
22 the bar, so to speak.

23 Q Closest to the living room side?

24 A Closest to that couch right there, that is correct.

25 Q All right. Let's go to number 13. What are we

1 viewing there?

2 A That is that coffee mug that was inside that cabinet
3 and a plastic bag containing some money and also a plastic
4 bag with a quantity of a blue and green powder,
5 approximately 3.9 grams.

6 Q So in that same, I call it coffee cup you find money
7 and a baggy of drugs in that coffee mug?

8 A That's correct.

9 Q And you described that as a blue/green powder like
10 substance weighing approximately 3.9 grams?

11 A That's correct.

12 Q So far that is the third baggy of drugs you found,
13 correct?

14 A Yes.

15 Q And, again, you suspected that to be a heroin,
16 phenetol mixture?

17 A Yes, sir.

18 Q Let's go to number 11. What are we looking at there?

19 A Razor blades, cutting board, some type of substance
20 on top of the board.

21 Q And where was that located, cutting board and razor
22 blades?

23 A Real close to that last picture, the same area in the
24 kitchen.

25 Q Same cabinet area in the kitchen?

1 A Yes.

2 Q Closest to the living room?

3 A Yes. In the background you can see the windows from
4 the living room.

5 Q Why did you take a photograph, why is that relevant?

6 A You can tell, those are used for paraphernalia items
7 or items in the drug trade.

8 Q Well, how are razor blades used in drug activity.

9 A To cut plastic bags, to cut pills, to cut different
10 types of drugs.

11 Q What about any type of powder related drug evidence.
12 What is the razor blade used for?

13 A To line it up or to get it neatly in place before
14 they, a person consumes it.

15 Q Is that also, are razor blades consistent beyond just
16 personal consumption reasons?

17 A Yes.

18 Q Why and how would they be used beyond personal
19 consumption?

20 A Because some people maybe use that to cut it with, to
21 cut with the drug to make more money, selling the first
22 quantity they have. They cut it to make more product, to
23 make more money.

24 Q So a cutting agent is like baking soda, things like
25 that?

1 A That's correct.

2 Q Let's move on to 15. What is that?

3 A A picture of the kitchen area.

4 Q So that is another side of the kitchen, correct?

5 A That's correct. It is another cabinet area similar
6 to what I was looking in before.

7 Q So that is a picture of the refrigerator, is that
8 correct?

9 A Picture of the refrigerator, yes.

10 Q And a microwave and then a cabinet above the
11 microwave?

12 A That's correct.

13 Q Let's go to 16. What is relevant in State's number
14 16?

15 A Coffee cups that is there, they were inside those
16 coffee cups.

17 Q Let's go to 17?

18 A Inside of those coffee cups in picture 17, you see a
19 plastic bag containing a white, I mean, I am sorry;
20 containing a quantity of multi-colored pills and then a
21 plastic bag containing a quantity of purple and
22 multi-colored pills.

23 Q Okay. So far how many bags have we identified thus
24 far, I believe of drugs so far in your testimony?

25 A At least five.

1 Q Let's go to 18.

2 A That is just a closeup of the picture of what was
3 inside that cup.

4 Q Okay. 19?

5 A That is a picture of the bar beside the couch again,
6 the scale.

7 Q That is a digital scale?

8 A That's correct.

9 Q And those are plastic baggies?

10 A And plastic baggies, yes.

11 Q Why is that relevant?

12 A Because the baggies are used to put the dope in or
13 the drugs in and then they measure it out with the scale,
14 generally selling by the gram, measurements of grams.

15 Q What is on the left side of that photograph?

16 A You are talking about bullets?

17 Q Yes.

18 MR. LAUBSHIRE: Objection, Your Honor.

19 THE COURT: Based upon my previous ruling that would
20 just be held in abeyance.

21 Q And you find that all to be consistent with drug
22 paraphernalia, illegal drug activity?

23 A That's correct.

24 Q And so, again, on this particular, the previous
25 photographs we just looked at, I believe 17 and 18, how

1 many bags of drugs were depicted in those two photographs,
2 17 and 18..

3 A Two. That is going to be the cabinet above the
4 microwave is where this was found in a coffee cup. And
5 inside of that coffee cup was a quantity of multi-colored
6 pills in one bag; a quantity of purple and multi-colored
7 pills in the other bag.

8 Q Is there not a third bag in that same section?

9 A Which photo are you talking about, Solicitor?

10 Q 17, look at both 17 and 18?

11 A It is a quantity of white powdered substance.

12 Q So that would be three bags depicted in State's 17
13 and 18?

14 A That's correct. I am sorry.

15 Q So far we have counted for how many baggies of drugs?
16 I count six thus far that we have accounted for. Excuse
17 me, if we combine, that would be, I have eight counts
18 total.

19 A Yes, sir.

20 Q Really in three areas, correct?

21 A That's correct.

22 Q What are the three areas where you locate those eight
23 baggies of drug evidence?

24 A One is going to be in the bag in the bedroom. And
25 then the other areas are in the cabinets closest to the

1 living room and the kitchen and the cabinets closet to the
2 refrigerator where the drugs were.

3 Q Okay. So two bags in the bedroom?

4 A Yes, sir.

5 Q And then three bags in the cabinet above the stove
6 area, closest to the living room?

7 A Closest to the living room, that is correct.

8 Q And then another two bags in the cabinet above the
9 microwave?

10 A That's correct.

11 Q For a total of eight.

12 A That's correct.

13 Q Just want to make sure we are all on the same page.
14 And what was the, at least in terms of the powder like
15 substance, what was the field weight of that?

16 A I had approximately 10 grams from what I believed to
17 be heroin and 10 grams what I believe to be was cocaine.

18 Q Why didn't you field test that to be sure what kind
19 of substance it was?

20 A With the phenetol, nowadays, it is put in drugs. It
21 is very dangerous for us, as law enforcement, to try to
22 handle that and try to identify exactly what is in that
23 mixture. So it is, it is best for law enforcement to make
24 the best possible decision based on what we see in our
25 experience, in 20 years of experience.

1 Q Okay. So just due to the hazardous nature and what
2 you suspected to be phenetol you just did not field test
3 it?

4 A No, sir.

5 Q But ultimately the determination was made by the SLED
6 drug analyst?

7 A Yes sir, SLED analysis.

8 Q And I show you State's 21, excuse me, not 21. My
9 apologies. State's 20. Now, how many digital scales did
10 you collect, roughly, just throughout the residence?

11 A Five.

12 Q Five, okay. I am going to hand you State's 33, do
13 you recognize State's 33?

14 A Yes, sir.

15 Q What is that?

16 A It is digital scales.

17 Q And you collected that throughout the residence?

18 A That's correct.

19 Q Some of those scales in that bag are depicted in
20 State's number 20?

21 A Yes.

22 MR. DANIEL: I offer State's 33 for admission into
23 evidence.

24 THE COURT: What says the Defense?

25 MR. LAUBSHIRE: No objection.

1 THE COURT: Without objection 33 is into evidence.

2 (Whereupon, State's Exhibit 33 was admitted into
3 evidence.)

4 Q And we accounted for, through the photographs, we
5 accounted for eight baggies of drug related evidence that
6 you believe were either cocaine or heroin?

7 A That's correct.

8 Q And they were in powder form and pill form as well?

9 A That's correct.

10 Q Did you suspect, at least you recovered the powder, I
11 believe that is on the pills. Did you suspect the pills
12 were a particular type of controlled substance?

13 A I did. In my experience in 20 years in law
14 enforcement, again, it has been evident that the homemade
15 pressed pills, what I was looking at was a form of Ecstasy
16 is what, we use the term, Ecstasy as. And then doing the
17 numerous cases that I have done in the past, they have
18 came back as methamphetamine. But we sent it off as
19 Ecstasy thinking that it was Ecstasy, when we got the
20 results back.

21 Q And all of those bags were collected. Who collected
22 those bags?

23 A I did, I collected all of them.

24 Q So you were the officer that personally seized those
25 baggies of drugs depicted in all of the photographs the

1 jury just saw?

2 A That's correct.

3 Q Did anyone else, to your knowledge, on the scene
4 touch the drugs, tamper with the drugs in any way, shape
5 or form?

6 A No, sir.

7 Q And I will show you State's 32. Do you recognize
8 that?

9 A I do.

10 Q What is that?

11 A That is the Best Kit that I filled out for the
12 substances that I found at the location.

13 Q Okay. And did you personally seal it in the evidence
14 bag?

15 A I did.

16 Q Did you do that on the scene?

17 A Yes.

18 MR. DANIEL: Your Honor, I offer State's 32 for
19 admission to evidence.

20 MR. LAUBSHIRE: No objection.

21 THE COURT: Without objection number, what was that
22 number again, Solicitor?

23 MR. DANIEL: 32, Your Honor.

24 THE COURT: 32 into evidence for the State.

25

1 (Whereupon, State's Exhibit 32 was admitted into
2 evidence.)

3 Q And once you sealed those in some kind of bag, what
4 is a Best Kit again?

5 A It is the Kit that the SLED gets us to put all of our
6 substances in to be sent to SLED for analysis. It is
7 individually tamper proof. They can tell whether it has
8 been tampered with or whatnot before it gets there. It is
9 just, their system that we use, we have used their lab
10 just like a lot of agencies in the State use their lab.
11 And that's the system they want us to use is the Best Kit.
12 The Best Kit, it is an envelope, the identification form
13 and also the chain-of-custody form is with it as well.
14 And this, I took it to SLED for their analysis.

15 Q And is that a heat sealed bag?

16 A That's correct. It is a heat sealed bag as well.

17 Q And it is sealed so if someone has to open, it is
18 readily apparent it has been opened.

19 A That's correct. That is the tamper proof part of it.
20 The agent they use within it, if it is messed with,
21 tampered with, they can tell right away.

22 Q And you had a Best Kit on the scene? You seized the
23 evidence at that mobile home that day?

24 A That's correct.

25 Q And then what do you do with it?

1 A Took it to the Sheriffs Office and placed it into
2 evidence.

3 Q I will come back to that. Let me show you State's 30
4 and 31. What is that?

5 A A visa card, BB&T card.

6 Q Okay. And is there a name on that bank card?

7 A Kendrick Blackwell.

8 Q And where was that located?

9 A In the same cabinet close to where the drugs were
10 found, close to the living room.

11 Q Kitchen cabinet?

12 A In a drawer. It is a kitchen cabinet and a drawer
13 right underneath the cabinet.

14 Q Kitchen drawer plus it is close to the living room?

15 A That's correct.

16 Q Kendrick Blackwell's bank card?

17 A That's correct.

18 Q And 31?

19 A Social security card, Kendrick Blackwell.

20 Q Where was that located?

21 A In his wallet that was in that same drawer.

22 Q Okay. Same kitchen drawer where the bank card is, is
23 where the social security card was found, correct?

24 A Yes, sir.

25 Q And then the bedroom, you testified earlier, the

1 bedroom, that black Champion bag was found. Do you
2 believe that to be Kendrick Blackwell's, correct?

3 A I do.

4 Q Let me show you State's 29. What is that?

5 A A picture of the bedroom.

6 Q Is that the same bedroom or another bedroom?

7 A That is another bedroom.

8 Q And did that, did that bedroom appear to be occupied
9 by anyone, I see a lot of stuff on the bed?

10 A No, it was not.

11 Q Did that appear to be a storage room?

12 A That's correct.

13 Q And pull up, let's talk about Iyeshia Sims briefly.
14 She was the female that was detained that day when you
15 executed the search warrant?

16 A That's correct.

17 Q And was she charged with any type of offense related
18 to that incident?

19 A Yes, she was. She was charged with charges as part
20 of the drugs go.

21 Q Did you have any information to suggest that Iyeshia
22 Sims was living at that mobile home?

23 A No, I did not.

24 Q So why was she initially charged with a drug crime?

25 A We did, neither one of them would take ownership of

1 the substances. And since the substances were in
2 constructive possession of both of them at the time, that
3 is why we charged both of them.

4 Q Is that a common practice when drugs are found in a
5 certain area, not on anybody's person, but just to charge
6 multiple people who are in the same general area?

7 A That's correct. It is just not usually drugs. I
8 mean, it can be alcohol as well, in a vehicle, it is most
9 common is where it is at. You know, you have got multiple
10 subjects in a vehicle, the stop is made. Substances are
11 found and no one claims them. Well it is in constructive
12 possession and the exact or real close proximity of each
13 one of them. So all of them can be charged and that is
14 normal, common in the State of South Carolina.

15 Q But ultimately do y'all let the courts sort out the
16 more culpable responsible party?

17 A That is correct. The charges are made and it is left
18 up to the courts to decide.

19 Q And to your knowledge has Iyeshia Sims' case been
20 presented to a Grand Jury?

21 A No, sir.

22 Q And what does that suggest to you?

23 A That she is not going to be held responsible for it.

24 Q Does that indicate that the Prosecution is taking no
25 action on the case?

1 A That's correct.

2 Q And, again, this was, to your knowledge, Kendrick
3 Blackwell's house?

4 A That's correct.

5 Q And on the chain-of-custody, if you could, pull up
6 number, State's number --

7 MR. DANIEL: Your Honor, State's 1 through 3, or
8 excuse me, State's 1 and 2, I don't know if Mr. Laubshire
9 has any objection to that, chain-of-custody related form.

10 MR. LAUBSHIRE: Can I see it.

11 THE COURT: He wants to take a look at it, Solicitor.

12 MR. DANIEL: Okay.

13 MR. LAUBSHIRE: No objection, Your Honor.

14 THE COURT: Without objection, 1 and 2 for the State
15 into evidence.

16 (Whereupon, State's Exhibits 1 and 2 were admitted
17 into evidence.)

18 Q State's number 1, we are talking about
19 chain-of-custody and make sure no one tampers with the
20 drugs. Tell us what State's number 1 is. It is on the TV
21 for the jury?

22 A Number 1 is the certification of the proof of
23 chain-of-custody of the substance that was seized that
24 day. The top part of it is my information. The date it
25 happened, who it was seized from, the location it was

1 seized. That narrative part in the following substances,
2 containers. That is what was sent to SLED to be analyzed,
3 those items there. The next part of it has my name, is
4 where I placed it into evidence and the chain.

5 Q So that form indicates that you were the officer that
6 seized the drug evidence, there are eight baggies?

7 A That's correct.

8 Q At the incident location?

9 A That's correct.

10 Q You logged it into evidence at the Sheriffs Office?

11 A That's correct.

12 Q And that is a secure evidence room?

13 A Yes, sir.

14 Q And that you were the officer that then transported
15 the drug evidence down to SLED in Columbia?

16 A That's correct.

17 Q And that, all of that drug evidence, those eight
18 plastic baggies were sealed in a Best Kit tamper proof
19 bag?

20 A That's correct.

21 Q Do you have any reason to suspect that drug evidence
22 had been manipulated or tampered with once you seized it?

23 A No, sir.

24 Q If it had been would you still had submitted that
25 drug evidence?

1 A What?

2 Q If you had suspected that drug evidence had been
3 tampered with in any way, shape or form, would that make a
4 --

5 A No.

6 Q And number 2, what day did you actually, you seized
7 it on January 30th of 2020. What day did you actually
8 take it to SLED?

9 A March 17th, 2020.

10 Q Number 2, State's number 2, please. What is that?

11 A That is, I have a sheet where I have to enter it into
12 our lab which is nothing more like a packing sheet, so to
13 speak. And you have, when you get to SLED you time stamp
14 it which is that March 17th, 2020; 12:12 p.m.; and it has
15 got my initials and it has got the locker that I placed it
16 in at SLED.

17 Q You placed all of this drug evidence into a secure
18 locker down in Columbia at the SLED office?

19 A That's correct.

20 Q And you wanted them to test this and tell you what
21 the substance truly was?

22 A That's correct.

23 Q All right. That was done on March 17th. Did you
24 pick the drugs up at any time after it had been tested,
25 for your agency to pick the drugs up?

1 A That's correct.

2 Q And that was done sometime later?

3 A Sometime later.

4 Q And that is why we have the drugs here in the
5 courtroom?

6 A That's correct.

7 Q Okay. And State's 34. I am going to pull that up.
8 It is the driver's license but we have a picture on the TV
9 so we don't have to pass around the driver's license,
10 excuse me, ID card, number 34. I said driver's license
11 but what is that?

12 A It is an ID card.

13 Q What address, and that is Kendrick Blackwell's ID
14 card, correct?

15 A That's correct.

16 Q What address does Kendrick Blackwell list as his?

17 A It says [REDACTED] Palm Lane, Fox Run, Newberry, South
18 Carolina.

19 Q And when was that ID card issued by the DMV?

20 A August 6th of 2019.

21 Q I noticed it didn't say [REDACTED] SC Highway 219?

22 A No, sir.

23 Q Does that indicate that Kendrick Blackwell told DMV
24 that he lived at that address on the ID card?

25 A That's correct. On that particular day that is what

1 he told them.

2 Q But to your knowledge, back in August of 2019, when
3 that was issued and the day you executed the search
4 warrant, did you believe that Kendrick Blackwell be
5 residing at [REDACTED] Highway 219?

6 A Yes, sir.

7 Q Did you look up that address, did you have an
8 occasion to look up that address listed on Mr. Blackwell's
9 ID card?

10 A Yes, sir.

11 Q What, did you make any discovery about that address?

12 A Yes, sir. We discovered it was his father's address.

13 Q Was that, were you able to actually --

14 A But it is not spelled correctly.

15 Q But is that address in existence?

16 A No, it does not exist in Newberry. The way it is
17 wrote right there, it does not exist.

18 Q What is GIS?

19 A GIS is the Geographic Information System now.

20 Q That address as it is listed on the ID card, did you
21 run it through the Geographic Information System?

22 A I did.

23 Q And did it come in as being an address that is in
24 existence?

25 A No.

1 Q Okay. So in other words Mr. Blackwell provided an
2 address that is not in existence to the DMV?

3 A That is what it appears, yes.

4 Q Does law enforcement go by DMV records to locate
5 somebody?

6 A Sometimes, yes. It is an investigative tool.

7 Q And if you were to go by the ID card alone, that
8 address would not be in existence, would it?

9 A No.

10 MR. DANIEL: I beg the Court's indulgence.

11 THE COURT: Take your time.

12 Q Ultimately, I am going to show you for ID purposes,
13 it has not been admitted into evidence yet. I will pass
14 up State's number 3. Do you recognize that?

15 A Yes, I do.

16 Q What is that?

17 A This is the forensic lab report, the drug analysis
18 from SLED.

19 Q Does that ultimately conclude that the substances
20 that you originally thought were heroin, cocaine and
21 Ecstasy, did that turn out to be methamphetamine or at
22 least partially methamphetamine?

23 A That's correct.

24 MR. LAUBSHIRE: Objection, Your Honor. Can we
25 approach.

1 (Whereupon, a bench conference was held in the
2 presence of the jury but out of the hearing of the
3 jury.)

4 Q 28 grams of methamphetamine?

5 A Yes, sir.

6 Q That is what Kendrick Blackwell is on trial for?

7 A That's correct.

8 Q What is, in your experience as a drug investigator,
9 what is the street fair market value of 28 grams of
10 methamphetamine?

11 A Approximately \$2,000.00 dollars; \$2,100, \$2,500.

12 Q So what, between --

13 A Generally speaking it is about 60 a gram. So do the
14 math, about \$2,100, \$2,300 dollars.

15 Q 60 dollars a gram. So roughly over \$2,000.00 dollars
16 worth of methamphetamine?

17 A That's correct.

18 Q Found throughout Mr. Kendrick Blackwell's trailer?

19 A That's correct.

20 Q Please answer any questions Mr. Laubshire has.

21 THE COURT: Subject for the State to potentially
22 recall.

23 MR. DANIEL: We would reserve the right to recall
24 Lieutenant Stribble.

25 THE COURT: Mr. Laubshire, cross-examination.

1 MR. LAUBSHIRE: Judge, what we discussed earlier, the
2 recall, subject to the two issues we discussed.

3 THE COURT: Right.

4 MR. LAUBSHIRE: Before we get started, Judge, if I
5 can take a short bathroom break.

6 THE COURT: Sure. Ladies and gentlemen, we are going
7 to take a very short restroom break. So go back to the
8 jury room, I realize it is up and down the stairs. But
9 don't discuss the case.

10 (Whereupon, the jury was excused from open court for
11 a break.)

12 THE COURT: We are back on the record and I took
13 under advisement the issue of the gun and the picture of
14 the gun, whether or not that should come into evidence. I
15 am going to find that it is not, really no South Carolina
16 case we could find on point. But we did come across a
17 Florida case, Talbert versus State where the Court in that
18 case, the gun did come in and they felt like the gun was
19 overly prejudicial to the Defendant and may cause the jury
20 to find him guilty of a drug charge, maybe otherwise they
21 would not have. Certainly the State could have indicted
22 and tried Mr. Blackwell on a possession of a weapon during
23 the commission of a violent crime and for whatever reason
24 did not. So I am not going to allow the gun to come in.
25 However, I am going to allow the picture of the utility

1 bill and the accompanying certification in under section
2 19-5-520 and I find it is not hearsay under Rule 803(6).
3 And even though it is not the same evidence, it is very
4 similar evidence, in my view, as the Visa card and the ID
5 card that has already come into evidence. So the gun and
6 the picture of the gun not coming in but the picture of
7 the utility bill and the certification from the Newberry
8 Electric Cooperative, I am going to allow to come in.

9 MR. DANIEL: Thank you, Your Honor.

10 MR. LAUBSHIRE: Judge, the issue about the bullets in
11 this case. We made a motion and the State was aware of
12 this when we made the motion about this gun. And so
13 mentioned to the jury in the photograph about the bullets.

14 THE COURT: That picture had not been put into
15 evidence, correct.

16 MR. DANIEL: Yes sir, it has because it is on a
17 kitchen table with plastic baggies, scales. So it is in
18 the photograph. It is all in that area.

19 THE COURT: But did it come in without objection?

20 MR. DANIEL: Yes sir, it did.

21 MR. LAUBSHIRE: I didn't see the bullets in the
22 photograph until he pointed them out. I didn't know they
23 were there.

24 COURT REPORTER: It is number 19.

25 THE COURT: Well, do you want, I mean, the dilemma

1 that I am in is, you know, if I give some sort of curative
2 instruction it is going to, potentially attention to the
3 existence of the bullets. I can if you request, Mr.
4 Laubshire, I can tell them in photograph 19 for them to
5 disregard the existence of bullets. That is going to draw
6 more attention to it. I will go either way, whatever you
7 want me to. The picture is into evidence without
8 objection. I can understand you can't necessarily pick up
9 everything that is in the photograph, so certainly not
10 faulting you whatsoever. But you tell me what you want me
11 to do.

12 MR. LAUBSHIRE: Judge, I think we will withdraw the
13 objection.

14 THE COURT: Withdraw the objection, very good. Gun
15 not coming in, the picture of the gun not coming in. The
16 utility bill and the certification is coming on.

17 MR. DANIEL: And Judge, I won't mention bullets
18 again, to be honest with you.

19 THE COURT: And, Lieutenant, if you can remember not
20 to mention bullets again too. I guess you want to
21 continue with your direct then, just to wrap up this
22 before we go to cross?

23 MR. DANIEL: Yes, sir. With the need to recall
24 Lieutenant Stribble.

25

1 (Whereupon, State's Exhibits 28 and 37 are marked for
2 identification only.)

3 THE COURT: Let's bring the jury in.

4 (WHEREUPON, the jury came into open court at
5 approximately 12:00 p.m.)

6 THE COURT: Let the record reflect the jury is back
7 in. Solicitor, you do have a little bit more direct?

8 MR. DANIEL: Yes, briefly, Your Honor.

9 THE COURT: You may proceed.

10 CONTINUE DIRECT EXAMINATION

11 By Mr. Daniel:

12 Q Lieutenant Stribble, I want to go back to the
13 kitchen. Walter, if you could, pull up one photo of the
14 kitchen, number 21. Do you recognize State's 21, first of
15 all, before we publish it?

16 A I do.

17 Q And what is that?

18 A It is a photograph of a power bill.

19 Q And is that power bill attached to the refrigerator
20 in the kitchen?

21 A That's correct. That is the refrigerator in the
22 residence that we were doing the search warrant.

23 Q We are admitting number 21 into evidence. So that
24 power bill is from Newberry Electric Cooperative and who
25 is the account, what name is that account in?

1 A Kendrick Blackwell.

2 (Whereupon, State's Exhibit 21 was admitted into
3 evidence.)

4 Q And there is an account number listed there, correct?

5 A That's correct.

6 Q Go to State's number 4 and I would offer State's
7 number 4 into evidence.

8 THE COURT: It is in evidence subject to what has
9 already been placed on the record.

10 (Whereupon, State's Exhibit 4 was admitted into
11 evidence.)

12 Q And the first page of that attachment, what is that?

13 A It is a certification of authenticity, for business
14 records. Basically it is an affidavit from the Electric
15 Coop.

16 Q That is an affidavit from Newberry Electric Coop
17 about business records?

18 A That's correct.

19 Q Go to page two of that attachment of number 4. What
20 is that?

21 A Part two is account register information.

22 Q And that information, that is a business record
23 provided to the State by Newberry Electric Cooperative,
24 correct?

25 A That's correct.

1 Q And what does it say at the top of page two of that
2 document?

3 A Newberry Electric Coop, the date of January 25th,
4 2022. It has got Kendrick Blackwell, [REDACTED] SC Highway 219,
5 Newberry. And the account number is 100556457.

6 Q And does that account number match the power bill
7 attached to the refrigerator in State's 21, that same
8 account number?

9 A Yes.

10 Q Okay. And what is the service address that Newberry
11 Coop indicates as the location being serviced with power?

12 A [REDACTED] SC Highway 219.

13 Q And it has got Kendrick Blackwell's name and address
14 right above the service address, correct?

15 A That's correct.

16 Q And is that, that is the same address?

17 A Exactly.

18 Q So that would indicate where they would mail the
19 power bill to?

20 A That's correct.

21 Q Okay. And when was the connection date of that
22 account in Kendrick Blackwell's name?

23 A August the 6th of 2019.

24 Q And that would indicate when the power was first
25 connected at that location in Kendrick Blackwell's name?

1 A That's correct.

2 Q And when is the disconnect date, at the top?

3 A January the 30th of 2020.

4 Q No, look at the top, it says disconnect date?

5 A Oh, I am sorry. February 17th, 2020.

6 Q February 17th, 2020. Was that about two and a half

7 weeks after y'all did the drug search at his house?

8 A That's correct.

9 Q The power has been disconnected. Is that correct?

10 A That's correct.

11 Q And so August 6th, 2019 the power bill was connected

12 in his name according to Newberry Electric Coop's records,

13 correct?

14 A Yes, sir.

15 Q Go to State's 34. What date was that driver's

16 license issued, or excuse me, ID card issued?

17 A August the 6th of 2019.

18 Q So August 6th of 2019, information given to the DMV,

19 there is one address on that ID card, correct?

20 A That's correct.

21 Q And that is not [REDACTED] Highway 219, is it, on the ID

22 card?

23 A No, sir.

24 Q But the same date, August 6th of 2019, on State's

25 number 4, the power bill, their records indicate, the

1 Electric Coop, that Kendrick Blackwell, he lives at [REDACTED]
2 Highway 219?

3 A Yes.

4 Q Thank you, that is all I have.

5 THE COURT: Mr. Laubshire, any cross-examination?

6 MR. LAUBSHIRE: Yes, Your Honor, may it please the
7 Court.

8 THE COURT: Sure.

9 CROSS-EXAMINATION

10 By Mr. Laubshire:

11 Q Deputy Stribble, what do you go by, Deputy,
12 Lieutenant, what would you like for me to call you?

13 A Lieutenant Stribble is fine.

14 Q Lieutenant Stribble. You have had an opportunity to
15 answer all the questions from the State.

16 A Yes, sir.

17 Q After answering those questions, is there anything
18 about those answers that you would like to correct or
19 adjust or clear up inconsistencies before I ask you any
20 questions?

21 A I am not sure --

22 MR. DANIEL: Objection, Your Honor, he has got to be
23 specific with his questioning. We don't know what he is
24 referring to with that question.

25 THE COURT: Try to be a little more specific, Mr.

1 Laubshire.

2 Q Any part of your testimony you want to correct before
3 I ask any questions.

4 MR. DANIEL: The same objection, Your Honor, he needs
5 to be specific on the question.

6 MR. LAUBSHIRE: I am just giving him an opportunity,
7 Judge, to clear up any inconsistencies that he may have.

8 THE COURT: I will allow it. Go ahead.

9 Q Any part of your testimony you want to clear up
10 before we start? I just want to give you an opportunity.

11 MR. DANIEL: Your Honor, will Counsel please state
12 exactly what question is he asking.

13 THE COURT: I will allow it. He is going to now, as
14 I understand, start going into some specific questions.
15 So you may proceed.

16 MR. LAUBSHIRE: Yes, Your Honor.

17 Q You went to this house to execute a search warrant,
18 correct?

19 A Yes, sir.

20 Q You knew you were going to the house for that
21 purpose?

22 A Yes, sir.

23 Q That was the plan?

24 A That's correct.

25 Q And in that plan did you go to the Sheriffs Office

1 and meet with a bunch of other officers to set up a plan,
2 go to the house?

3 A We discussed it, yes.

4 Q So it was a meeting before you executed the search
5 warrant?

6 A Yes.

7 Q Who did you meet with?

8 A Agents from SLED were there, there were agents from
9 the Sheriffs Office. Probation had some officers there
10 and Newberry PD. But all of those didn't go to the search
11 warrant.

12 Q So you had a pre-search warrant meeting included
13 SLED, Probation, Newberry PD and Newberry Sheriffs Office?

14 A They were not involved in the search warrant.

15 Q What were they doing?

16 A They had other things that they were doing in other
17 parts.

18 Q So Probation and Newberry PD, didn't take any part in
19 the search?

20 A No sir, not that I recall.

21 Q But they did come to the meeting?

22 A Yes.

23 Q These search warrants are pretty serious, aren't
24 they?

25 A Yes, sir.

- 1 Q And potentially could be pretty dangerous?
- 2 A Yes, sir.
- 3 Q So you were dressed up in your Newberry County
- 4 uniform?
- 5 A Yes, sir.
- 6 Q Everyone was in a law enforcement uniform?
- 7 A Yes, sir.
- 8 Q There was no doubt that everybody in those uniforms
- 9 was law enforcement?
- 10 A Yes. Actually Newberry PD did have a dog there, a
- 11 dog was there.
- 12 Q So Newberry City had a canine?
- 13 A Yes. I am pretty sure that was their's, yes.
- 14 Q Who was in charge of this scene?
- 15 A Major Dennis and I were.
- 16 Q When you arrived on this scene to serve the search
- 17 warrant, you anticipate that you are going to find some
- 18 things?
- 19 A Yes, sir.
- 20 Q When you arrive you anticipate a crime scene?
- 21 A That's correct.
- 22 Q It is a crime scene that you are in charge of?
- 23 A Yes, sir.
- 24 Q Crime scenes are important?
- 25 A Very.

1 Q The position of the crime scene, that would be on
2 you?

3 A That's correct.

4 Q I notice in those photos we were shown, I didn't see
5 any crime scene tape?

6 A Yes, sir.

7 Q Who was in charge of setting up the crime scene tape
8 and cording off this area for you guys to do the search?

9 A I mean the search was the residence.

10 Q Who was in charge of setting up the crime scene?

11 A I guess that would be me.

12 Q You have a policy on that, don't you?

13 A That's correct.

14 Q And your policy specifically says that at these crime
15 scenes you will be cording off with vehicles and lines and
16 officers with crime scene tape. Isn't that what the
17 policy says?

18 A Yes, sir.

19 Q When did that happen in this case?

20 A It did not.

21 Q So no one secured this scene, as we see on TV, with
22 crime scene tape?

23 A Not as you see on TV but it was secured because the
24 number of officers there, who was able to secure.

25 Q I will get to that in just a second. I just want to

1 ask you about this crime scene tape issue from cording off
2 this area to make sure that no one came in and out that
3 wasn't suppose to. So that didn't happen?

4 A No, sir.

5 Q And isn't it true that this policy you guys have at
6 the Sheriffs Office is actually entitled, Collection of
7 Preservation of Evidence, and it is for this very purpose?

8 A Yes.

9 Q The policy starts out, this is basically the policy
10 for the professional collection of preservation of
11 evidence.

12 A Yes, sir.

13 Q Isn't the purpose of setting up that crime scene, the
14 tape and the lines and everything, the purpose of setting
15 up the barrier to make sure we know that everybody who
16 came in and out of that scene, isn't that what the policy
17 says?

18 A That's correct.

19 Q Who set up the crime scene?

20 A No one.

21 Q So there is no crime scene log in this case?

22 A No.

23 Q So we don't know what officers were there or what
24 officers weren't?

25 A The officers that is on the search warrant, on the

1 return, has the officers out there.

2 Q There is no officer with canine, with the City that
3 puts out that search warrant?

4 A He didn't participate.

5 Q But he was there?

6 A He was on the scene.

7 Q He was on the scene. We have nobody to account for
8 what he did while he was there, do we?

9 A I guess not.

10 Q Because we don't have a crime scene log, do we?

11 A No, sir.

12 Q You guys skipped that?

13 A That was mine.

14 Q You guys didn't do a crime scene log?

15 A No, sir.

16 Q Since these are policies, to set this crime scene up,
17 set up a log and make sure we have integrity of the scene
18 to know who was there and what they did. Was anybody
19 cited for that for a policy violation that was given to
20 the Sheriffs and say, hey, this is a policy violation, we
21 need to talk about this?

22 A No, sir.

23 Q Was corrective action taken?

24 A No, sir.

25 Q Isn't it true that everybody is suppose to write a

1 report who goes on that scene to tell what they did and
2 what they didn't do and what their role was. Isn't there
3 a policy that says that?

4 A The report is there.

5 Q But isn't there a policy in the collection of
6 evidence that mentions every officer is to write a report
7 or supplement a report as to what their role was?

8 A I recorded all the evidence.

9 Q So no one else wrote any reports in this case?

10 A The only evidence supplemental to this report was the
11 service of the warrants.

12 MR. LAUBSHIRE: Judge, can I approach the witness to
13 refresh his memory.

14 THE COURT: You can. Please put on a mask, if you
15 would.

16 Q Officer Stribble, would you look at this copy of
17 general orders?

18 A Yes, sir.

19 Q Do you receive a copy of that as part of your
20 employment at the Sheriffs Office?

21 A Yes, sir.

22 Q Can you review the highlighted portion?

23 A The main persons collecting the items, all personnel
24 involved in the place, preservation of evidence are to
25 complete a report.

1 Q That is the Sheriffs Office policy?

2 A Yes, sir.

3 Q All the officers that were on the scene that were
4 there, would have to do some kind of supplemental to
5 indicate of what their role was in this case?

6 A Yes, sir.

7 Q But they didn't?

8 A No, sir.

9 Q Did you ever request that they do that?

10 A No, sir.

11 Q There were officers there, canine officer there,
12 isn't that true?

13 A Yes, sir.

14 Q You don't know what his name is?

15 A Canine officer?

16 Q Yes.

17 A Justin Hawkins.

18 Q And there was a Sergeant Dickert, does that sound
19 right?

20 A Ryan Dickert.

21 Q And I could see five SLED agents. The names are kind
22 of scribbled. I am going to try and see if you remember
23 who these people are. Agent Wingo?

24 A Yes, sir.

25 Q Agent Gruhner?

1 A Say that again.

2 Q Agent Gruhner?

3 THE COURT: Can you spell it. When you give the
4 name, spell it for the Court Reporter.

5 Q G-R-O-M-E-R. (Gruhner.)

6 A I am not sure of his last name.

7 Q But you know who he is by face maybe?

8 A Yes, sir.

9 Q Agent Owens, O-W-E-N-S?

10 A Jamie Owens, yes.

11 Q And Agent Tyner?

12 A Kevin Tyner, yes.

13 Q And Agent Hiott?

14 A B.J. Hiott, yes.

15 Q These officers were all there on the scene?

16 A That's correct.

17 Q That's nine by my account, is that correct, is that
18 how many you have?

19 A I will have to go back and look. I have got eight
20 listed on the search warrant. It does not have Hawkins on
21 there and canine.

22 Q You remember him?

23 A I remember his uniform from the picture that was
24 taken.

25 Q Is it possible that you remember, you don't remember

1 other officers that may have been there or stopped by
2 while you were in the house?

3 A Possibly, yes sir.

4 Q So there is really an unknown number of officers that
5 came to the scene?

6 A I would agree.

7 Q Okay. Now, the Sheriffs Office has body cameras,
8 don't they?

9 A Yes, sir.

10 Q You have been issued a body camera?

11 A Yes.

12 Q There is a policy at the Sheriffs Office regarding
13 body cameras?

14 A That's correct.

15 Q And the policy starts out calling these very valuable
16 pieces of equipment, don't they?

17 A Yes, sir.

18 Q And it is used to enhance the accuracy of these
19 cases?

20 A That's correct.

21 Q To make sure all the evidence is collected properly,
22 correct?

23 A Yes, sir.

24 Q And were you wearing a body camera this day?

25 A I was.

- 1 Q Was Major Dennis wearing a body camera?
- 2 A Yes, sir.
- 3 Q And how about Sergeant Dickert?
- 4 A Yes, sir.
- 5 Q And do you know or if you don't know if Mr. Humphries
- 6 from the City was wearing a body camera?
- 7 A I don't know.
- 8 Q How about SLED, do you remember if any of those
- 9 agents were wearing a body camera. I know it is their
- 10 policy but do you --
- 11 A I am not aware, no sir.
- 12 Q Did you ever ask them?
- 13 A No, sir.
- 14 Q So as you sit here today you have never called SLED
- 15 and said, hey, do you guys happen to have body cameras for
- 16 this event?
- 17 A No, sir.
- 18 Q Where do you keep your body camera on your person
- 19 when you wear it?
- 20 A It would be about right here, about the middle of the
- 21 chest.
- 22 Q And you activate the body camera?
- 23 A Say again?
- 24 Q You activate the body camera?
- 25 A That day?

1 Q Yes.

2 A Yes.

3 Q Did you know if it was working. Does it have an
4 indicator light?

5 A I mean I can see if it is on. I heard a beep, that
6 is what it does.

7 Q So it has some feature to let you know it is working?

8 A That's correct.

9 Q And the other officers, they had their body cameras
10 on?

11 A That's correct.

12 Q You can tell by looking at them because they have an
13 indicator of them?

14 A Yes.

15 Q Where is the body camera video from this case, your
16 body cam, where is it?

17 A I would assume that it purged on its own. In other
18 words, so if the body worn cameras is not tagged at all
19 then we, it purges itself. The system purges itself
20 within 30 days. If it is marked no court then it is 30
21 days from the recording. If it is marked Magistrate Court
22 it is held for nine months. And if it is marked Circuit
23 Court it is held for 18 months. So in this particular
24 case it was tagged right, it was marked Circuit Court. As
25 you can tell, it has been January 20th of 2020 since this

1 has, this case happened. And it purged on its own July
2 30th, 2021, over 18 months. So with, you know, without us
3 trying to go in there and manually download it ourselves
4 its gone. So we don't have it to show you guys or show
5 anyone in this case because it has purged itself. And,
6 you know, it is our fault. Ultimately it is my fault that
7 it wasn't saved, that it wasn't downloaded properly, I
8 guess you could say. So, you know, we all learn a lesson
9 when it comes to, to the body cam situation because it is
10 all new to everybody. I did not know that, you know, it
11 was going to be a situation where it would be gone. It
12 wasn't like, it wasn't done purposefully or something like
13 that to try to hide anything. It is just not there
14 anymore, it is gone, it purged on its own. I hope that
15 answered what you are trying to --

16 Q It helps. Thank you. Now, isn't it true that this
17 court would be entitled to this recording?

18 A Yes, sir.

19 Q That is actually in the policy as well?

20 A That's correct.

21 Q The people are entitled to this, the criminal
22 defense, pending action?

23 A Yes, sir.

24 Q And I requested that, didn't I?

25 A Yes sir, you did.

1 Q And this case happened in January?

2 A Yes, sir.

3 Q And five months later is when I asked for all the
4 evidence in this case. Isn't that correct, in May of '21?

5 A I guess. I mean if that is what you did, that is
6 what you did.

7 Q I mean that is way before 18 months?

8 A Yes, sir.

9 Q So you knew that you had a major criminal case
10 pending, in May of 2020 you knew you had a major criminal
11 case?

12 A I did a Rule 5 if that is what you are asking.

13 Q No, I am just asking, you knew you had a major
14 criminal case pending?

15 A I agree, yes.

16 Q In May, when I asked for this evidence?

17 A Again, you didn't ask me though.

18 Q Well, I asked the prosecution. And you turned over
19 the report and you turned over your case file, didn't you?

20 A I didn't. They turned over whatever they turned over
21 to you.

22 Q You gave them the evidence?

23 A They have access to it, yes. They had access to the
24 body cam.

25 Q So whose fault is it that no one preserved this

1 video. Is it yours?

2 A I mean, I don't know if it was my fault, but it
3 wasn't known.

4 Q But it was your fault for it not being saved. Who
5 pays the price for you not saving it.

6 MR. DANIEL: Your Honor, objection. I mean it has
7 been asked and answered. He already testified it was
8 unintentionally purged.

9 THE COURT: Overrule your objection. You can pursue
10 this line.

11 Q Who ultimately has to pay the price for you not
12 preserving the evidence in this case?

13 A The Defendant.

14 Q Now, this item got deleted. Did anybody report this
15 to a supervisor. Because the policy says, as soon as
16 there is an issue with the body cam, uploading or
17 retention, they are suppose to be a notice sent to the
18 supervisor. Did that ever happen?

19 A Not that I am aware of.

20 Q So no one was ever disciplined for this failure to
21 break down the policy?

22 A No, sir.

23 Q Did you ever report it?

24 A I didn't know it.

25 Q You didn't know it until when?

1 A Until we were trying to bring to court on it.

2 Q So at no point from the time you made the case in
3 January of '20 to February of '22, two years later, you
4 didn't take any steps to prepare this case and preserve
5 this --

6 A That's not correct, what you are saying, no sir. As
7 far as the actual video itself, I didn't know it had
8 purged on its own.

9 Q When did you find out?

10 A When we started coming to court a month ago.

11 Q So for two years you didn't do anything on this case?

12 A Again, that is not correct. I did do stuff on this
13 case.

14 Q As to the video?

15 A As to the body cam video, that's correct.

16 Q This is a long shot. Was there anybody on the scene
17 that happened to have any car cameras that captured any of
18 the scene?

19 A As far as the Sheriffs deputy, no, that I am aware
20 of.

21 Q Did you happen to prepare any notes in this case, we
22 have got your report, do you have any handwritten notes
23 that you made in this case?

24 A Not that I am aware of.

25 Q Now, any of these drugs that you pointed out that was

1 found in the house, were any of those items on Mr.
2 Blackwell?

3 A No, sir.

4 Q You said he answered the door?

5 A No. All I can tell you, my report reads that both
6 subjects were present. They were escorted out of the
7 mobile home and detained. So they were inside the mobile
8 home.

9 Q Do you know who knocked on the door?

10 A No. Not right off the top of my head, no. Law
11 enforcement.

12 Q Do you know who first interacted with Mr. Blackwell?

13 A No, sir.

14 Q Do you know who escorted him out in the yard?

15 A Major Dennis talked to him out in the yard.

16 Q Now, I have seen your report. It doesn't indicate
17 that when this happened Mr. Blackwell gave anybody any
18 resistance. Is that correct?

19 A No sir, he didn't.

20 Q He didn't attempt to run?

21 A Not that I am aware of, no sir.

22 Q He wasn't resistant with you?

23 A No, sir.

24 Q He wasn't trying to grab a handle or anything and try
25 to flush it?

1 A Not that I am aware of, no sir.

2 Q He didn't try to grab and run out of the house?

3 A No, sir.

4 Q Just cooperated with you?

5 A Yes, sir.

6 Q The search warrant indicates that you are looking for
7 this contraband. It also indicates cell phone?

8 A Yes, sir.

9 Q I assume it says that because if you are a drug
10 dealer you have to use your cell phone?

11 A Yes, sir. It is common knowledge they use a cell
12 phone.

13 Q And in this case did you locate his cell phone?

14 A Again, let me look. It doesn't appear. No, we
15 didn't see his cell phone within the scene.

16 Q So there was no cell phones taken?

17 A Not that I see on the search warrant, no sir.

18 Q It is strange for a drug dealer to have no cell
19 phone? Isn't that kind of strange, a drug dealer has no
20 cell phone?

21 A Maybe he had it, we just didn't take it.

22 Q Your warrant says you were going to take and seize
23 it?

24 A No, it says that we could.

25 Q You didn't think it was relevant to seize a cell

1 phone?

2 A No, I didn't think it was.

3 Q You just testified that that is evidence?

4 A And I did, yes sir. But I think that we didn't see
5 it in this particular phase.

6 Q So you went and asked the Judge for a warrant to
7 seize these things, including a cell phone, potentially
8 came across a cell phone but didn't take it. Is that what
9 you are telling me?

10 A That's correct.

11 Q Why would you leave such critical evidence behind?

12 A I am not saying we left it behind, I am saying we
13 didn't see one. I mean, I don't know that he had one,
14 from what I can see now.

15 Q So you weren't the only one searching the home?

16 A No, sir.

17 Q How many officers were searching the home?

18 A The officers listed on the search warrant.

19 Q Eight officers?

20 A No, sir. One, two, three, four, five, the people
21 that were listed on the search warrant were present.

22 Q And they were searching the home?

23 A I can't testify to what they were doing.

24 Q You don't know what the officers were doing in the
25 home?

1 A Not every single minute. I was sitting there
2 photographing and collecting the evidence.

3 Q Eight officers were unaccounted for, activity or
4 whereabouts?

5 A That is your description of it.

6 Q Can you account to their whereabouts and what they
7 are doing?

8 A They were, they were at the residence when the search
9 warrant was being executed.

10 Q These are the same officers that don't appear on the
11 crime scene log, correct?

12 A Sir?

13 Q Is it the same officers that don't appear on any kind
14 of crime scene --

15 A That's correct.

16 Q Now we can't account for what they are doing,
17 correct?

18 A No. They are on the search warrant return. They
19 were present at the search warrant.

20 Q I am asking, specifically, you had a pre-meeting
21 before you went to the search warrant?

22 A I can't sit there during the entire, and know that he
23 is right here, right there and where, you know, we all
24 have a job that, and my job was collecting and
25 photographing evidence.

1 Q And before you went to the house, you were in charge
2 of the scene, asked for SLED for help. What job do you
3 assign each one of the officers before you left to go to
4 the house?

5 A I don't have that paperwork with me, in front of me.

6 Q Is that paperwork admitted?

7 A No. What I am saying, the jobs were assigned, what
8 they are going to do. But, no sir.

9 Q So you didn't make any notes in this case?

10 A No. That is what I am saying. I don't have any
11 notes where I did anything, where I assigned specific
12 duties.

13 Q Did you assign anybody to do anything or you did?

14 A They assisted with the search warrant.

15 Q I am sorry, I didn't hear.

16 A I said, they assisted with the search warrant.

17 Q But I am asking you a specific question. I would
18 appreciate a specific answer. Didn't you assign the
19 officer, what did you assign the Major to do?

20 A He read the search warrant to the Defendant, to the
21 subject. And the other subject that was there.

22 Q Was that the job you assigned to him before you went
23 to the home?

24 A I don't know if we assigned or not, I mean, that is
25 what he did.

1 Q Did he do anything else?

2 A Again, this was over two years ago. I am not exactly
3 sure what all he did, he read Miranda warnings too.

4 Q Okay. What about Sergeant Dickert. What job did you
5 assign him?

6 A Again, we all participated in the photographing of
7 the evidence and searching inside of the residence.

8 Q So essentially a general search conducted by eight
9 officers who have no assigned jobs, free for all?

10 A If that is what you want to call it.

11 Q I wasn't there, I am asking you. If that is what you
12 are telling me happened I have to believe it. Now, I have
13 a question about the ID that you were shown. Can I see
14 that exhibit.

15 THE COURT: Sure, show him.

16 Q This is State's exhibit 34 that you previously
17 identified and talked about.

18 MR. DANIEL: Your Honor, I can't hear the attorney.

19 THE COURT: Speak up, please.

20 Q This is the ID that you were shown, Exhibit number 34
21 by the State's Prosecutor, about Mr. Blackwell.

22 A Yes, sir.

23 Q I want to ask you about, see this to refresh your
24 memory. There were some photographs taken that were not
25 introduced into evidence of another ID that was taken at

1 that scene. It was a photograph that the Government gave
2 to us in this case.

3 A Yes, sir.

4 Q I would like to ask you, who took that photograph?

5 A I would assume I did.

6 Q And that is not, this is someone else's?

7 A That's correct.

8 Q Have another ID, a mystery witness who doesn't appear
9 in this case anywhere?

10 A No, sir.

11 Q None to identify?

12 A It was just an ID found at the residence.

13 Q How come that wasn't put into evidence by the
14 Government?

15 A Because it was just documented. I mean, it was a
16 photograph taken and it was documented.

17 Q We spent the morning on examination by the State
18 about Mr. Blackwell's ID and that ID goes to that house,
19 supposedly where you found it. And that makes it his.

20 A No, sir. The reason that I took his because he was
21 the one being charged and it was at his house or around
22 the house.

23 Q Somebody else had their ID at that home?

24 A I agree.

25 Q And that person wasn't located to check and see if

1 this stuff belongs to them?

2 A Through the investigation it was determined that Mr.
3 Blackwell was the resident of that particular house. The
4 only one that I knew of that stayed there.

5 Q Well, you have a photograph of an ID?

6 A I can't argue that, yes sir.

7 Q Did you followup and find that person?

8 A No, sir.

9 Q Did you use that GIS system that you talked about
10 that was so good to find where people are?

11 A Again, he did not live at that particular address
12 that we knew of, no sir.

13 Q How did you make that determination. You didn't talk
14 to him, you didn't followup, you didn't do any
15 investigation into him. Why not followup with this guy?

16 A The problem is, when it comes to, you know, you try
17 your best to investigate at the fullest and do the very
18 best you can. To sit here and say that that guy could
19 live there or not. I mean, I don't know if he did or not.
20 The investigation we had, everything we saw, Kendrick
21 Blackwell lived at that address, not the other guy. That
22 is why we took Kendrick out of there.

23 Q You wouldn't know, would you. You didn't do any
24 investigation into that?

25 A Yes, sir.

1 MR. DANIEL: Your Honor, is this being offered by the
2 Defense into evidence. He makes so many references to it.

3 THE COURT: He hasn't moved it in yet. Just ask him
4 about it.

5 MR. DANIEL: He approached the witness and I couldn't
6 see which one he was identifying. Your Honor, I cannot
7 make out any discernable name on this photograph that he
8 has shown the witness.

9 THE COURT: You can certainly ask him in redirect if
10 you so choose concerning this picture of some other ID.
11 You may proceed.

12 Q Who all was in this house?

13 A Mr. Blackwell and Iyeshia Sims.

14 Q You spoke with the Prosecutor about Ms. Sims. Said
15 that she hasn't been presented to the Grand Jury, she was
16 charged?

17 A Yes, she was charged.

18 Q Now, isn't it true that as an officer you have
19 discretion?

20 A Discretion?

21 Q You have discretion to charge or not charge someone?

22 A We did charge her.

23 Q You have discretion to not proceed with the charge,
24 don't you?

25 A Yes.

1 Q And when you tell the jury you haven't brought it to
2 the Grand Jury, that's not, that is a personal choice,
3 isn't it. That is your discretion?

4 A Well, it is my personal investigation, Mr. Blackwell
5 is the one responsible for the substances that were found
6 in that house, not Iyeshia.

7 Q How did you make a determination that it didn't
8 belong to her?

9 A Through the investigation of finding out that he was
10 the one that was there. In other words, his power bill,
11 the power bill was in his name; the house, everything we
12 led back to him was to him. He lived there by himself, a
13 lone resident, him and him only. And her, living at a
14 different location.

15 Q How did you determine she was living at a different
16 location?

17 A Through ID.

18 Q The same as his ID with a different address on it?

19 A She told us, I don't remember the exact location.
20 But in his report her address is [REDACTED] Drayton Street.

21 Q How many other people could have lived at that house
22 and you don't know it?

23 A I don't know.

24 Q How many days of surveillance did you conduct on this
25 house prior to doing the search warrant?

1 A I don't have a direct number of days or house.

2 Q Is there any video available?

3 A No, sir.

4 Q Surveillance?

5 A No, sir.

6 Q Is there an officer report about who did surveillance

7 going in and out?

8 A No, sir.

9 Q Why wasn't there any surveillance done on this

10 property to determine who was going in and out of this

11 property?

12 A It was not.

13 Q It wasn't done?

14 A It was not.

15 Q Are you familiar with Danny Kinard?

16 A Who?

17 Q Danny Kinard. Do you know if he lives at that

18 property or stays on that property on occasion?

19 A I am not familiar with who you are talking about.

20 Q How about Audrey Wise?

21 A No, sir.

22 Q Never heard of them. How about Mr. Lakes, Brandon

23 Lakes?

24 A No, sir.

25 Q Tyson Maddox, ever heard of them?

1 A No.

2 Q About Howard Mathis?

3 A No, sir.

4 Q You don't know that all of these people were in and
5 out of that house in days preceding this search warrant?

6 A No, sir.

7 Q You have no surveillance?

8 A No, sir.

9 Q Have you ever heard of anybody that lived there with
10 Mr. Blackwell with a nickname, Bubba?

11 A The only person that I know of a Bubba is a Michael
12 Long. Is that who you are referring to?

13 Q Is that the person who lives in Greenwood?

14 A Yes, he lives in Greenwood.

15 Q Did you do any investigation into him?

16 A I know his address is on Long Pond Road in Greenwood.
17 But I am familiar with Bubba through 20 years of law
18 enforcement, if that is the same Bubba you are talking
19 about.

20 Q I am not sure, I am asking you. You tell me, I will
21 trust your answer. Do you know if he has any connection
22 with this house?

23 A I have no idea if he does or not.

24 Q This is a what, three bedroom house, three bedrooms
25 in there?

1 A I don't recall. Again, it was over two years ago, we
2 have done a lot of other investigations since then.

3 Q So who all did you interview in this case?

4 A We attempted to talk to Kendrick and he would not
5 talk to us.

6 MR. LAUBSHIRE: Objection, Your Honor.

7 THE COURT: Strike that answer concerning Mr.
8 Blackwell refusing to talk to law enforcement.

9 Q Did you talk to any witnesses other than Mr.
10 Blackwell, to interview in this case?

11 A Say that last part again.

12 Q Did you attempt to interview anybody else in this
13 case?

14 A Not that I am aware of.

15 Q The person that was at the house when you got there,
16 did you interview her?

17 A Iyeshia?

18 Q Yes.

19 A She didn't talk to us then either.

20 Q She didn't?

21 A No, she requested an attorney right away.

22 Q She requested an attorney --

23 A -- both subjects were escorted out and then it says
24 below, they both requested an attorney.

25 Q Today, you don't know of an interview she ever gave?

1 A No, not to me.

2 Q The reason you aren't proceeding with charges against
3 her is because her ID is different?

4 A No. I am not proceeding with charges because I am
5 not doing the indictments.

6 Q So it was someone else's decision to drop those
7 charges?

8 A That is not where I am going with that.

9 Q Okay. Well, tell me where you are going.

10 A What I am saying, through the investigation it was
11 discovered that we felt, law enforcement felt that
12 Kendrick Blackwell was responsible for the substance
13 inside that residence and not Iyeshia.

14 Q I understand that you felt that way, I understand.
15 But I am asking you, what evidence do you really have that
16 these items belonged to Mr. Blackwell as opposed to the
17 other party that is charged in this case; and any of the
18 other names that I gave you listed, what real evidence do
19 you have other than you felt it. I understand that, I am
20 with you.

21 A The point I am, through my experience is and through
22 the investigation of this case it was determined that the
23 items belonged to Mr. Blackwell.

24 Q That is based on experience?

25 A That's correct.

1 Q Not on evidence?

2 A I am not sure if I am, answered you correctly as far
3 as the -- I am getting confused is what I am trying to
4 say.

5 Q I am sorry, I will ask you again. And if that
6 happens and you think that I have confused you or
7 something, I will be happy to ask you the question again.
8 I am not trying to confuse you, I am just trying to get to
9 the --

10 A The point I am making is, through our investigation
11 we determined Kendrick Blackwell to be the owner of the
12 residence or tenant of the residence therefore he was
13 responsible for the items inside of the residence.

14 Q That is what I am, specifically what I am asking.
15 Based on what, so far you told me that you felt it, it is
16 your experience. But I am asking you what evidence do you
17 have to show, I understand it is a feeling and experience.
18 But what evidence do you have that this belongs to Mr.
19 Blackwell. You determined that the ID, apparently the ID
20 is from somewhere else, it is not -- you are at the house,
21 it doesn't mean it is yours. What evidence do you
22 actually have these items belong to Mr. Blackwell?

23 A He was at the residence when we were there.

24 Q So was the other witness?

25 A Yes, sir.

1 Q Is there some reason, other than a feeling, you
2 didn't just charge her?

3 A Correct.

4 Q They asked you about field testing and there is some
5 controversy about what you thought the drugs were and what
6 you sent them off as and how they came back?

7 A That's correct.

8 Q You didn't field test these items at all?

9 A No, sir.

10 Q And you gave some very good security reasons for not
11 doing that because it could be poisonous, you didn't want
12 to get that on you. Is there any way you could have taken
13 precautions to field these items, used some rubber gloves,
14 masks or anything to actually test these items, would be
15 better than just a guess?

16 A You know, being, we are a small agency, we don't have
17 the nice equipment they would field test specifically what
18 items are. There are some cheaper methods, what you are
19 talking about. Yes, some of them may not be as liable as
20 you guessed the item to be or the experience level that I
21 showed and made the decision that I made to go with that
22 particular call. The point I am making is, you know, the
23 safety of us as police officers outweigh us testing the
24 items. But to answer your question, did we have rubber
25 gloves, mask, sure. But still yet, those things could

1 come through or are more dangerous than that type of
2 protection.

3 Q Are you issued any kind of reagents from your
4 department whether it be multi used to field test drugs?

5 A What?

6 Q Are you issued any kind of reagent that you can use
7 to field test. Are you issued any kind of field test at
8 all within a manufacture or with a reagent that you just
9 put in a bag. Are you given anything like that?

10 A No. We have had, in the past, like I said, I have
11 been here 20 years. Yes, we had small Best Kits if that
12 is what you are asking.

13 Q That is what I am asking. I am just asking, do you
14 have any test kits?

15 A We had some in the past, yes.

16 Q Did you have any of this day?

17 A I don't know, I did not test it.

18 Q You didn't test it, but you don't know if you had the
19 test to test it?

20 A It is not something that we continuously buy due to
21 the fact the dangers of testing that stuff could harm one
22 of us. So we don't buy them anymore.

23 Q So when you found the substances, you made your
24 determination based on your experience and your feelings
25 initially, correct?

1 A I understand.

2 Q Is that a correct representation. You determined
3 that this was heroin and cocaine based on your feeling and
4 your experience?

5 A Yes, sir.

6 Q Isn't it true that you are wrong?

7 A That's correct.

8 Q So your feeling is wrong, your experience was wrong?

9 A No. I was just wrong on what the stuff was.
10 Everyone makes mistakes too.

11 Q But you based that on your feeling and your
12 experience?

13 A No. I based that on my training and experience, not
14 just feeling.

15 Q So your training and your experience?

16 A Yes.

17 Q And you were --

18 A I was wrong.

19 Q And then you sent the drugs off, one was Ecstasy?

20 A Yes, sir.

21 Q And, again, your feeling and your experience was
22 incorrect?

23 A As you know, when Ecstasy comes back from SLED, what
24 does it come back as?

25 Q Well, actually, I ask the questions. I would love to

1 go through this with you but I ask the question and you
2 give the answer. That is how it works.

3 A It comes back as meth --

4 Q That's --

5 THE COURT: Don't talk over each over. Mr.
6 Laubshire, wait for the answer to be completed before your
7 next question. And, Lieutenant Stribble, make sure that
8 the question is finished before you start the answer. So
9 go back again to your last question, if you remember
10 specifically what it was, Mr. Laubshire.

11 Q You sent the drugs off to SLED, correct?

12 A That's correct.

13 Q And you labeled them as Ecstasy, correct? Yes or no.

14 A I labeled them, there were several bags that I
15 labeled. I labeled them, one is a white powder; one is a
16 green and white powder; one is a green powder substance
17 and one is a pink powder; one is a white powder; and then
18 multi-colored tablets; and then other multi-colored
19 tablets; and then there is another one that is
20 multi-colored tablets; and there is another one of
21 multi-colored tablets and purple pill. That is how it was
22 labeled.

23 Q No specific label?

24 A No.

25 Q Okay. And they came back to you and told you it was

1 something else?

2 A That's correct.

3 Q Okay. And I understand you didn't test the
4 substances at the scene. I understand you told us you
5 didn't do that because of safety issues. Aren't
6 fingerprints an important part of a criminal
7 investigation?

8 A Yes, sir.

9 Q Some of these items were found in cups, were they
10 not?

11 A They were found in plastic bags.

12 Q That were located inside of a cup?

13 A Yes, sir.

14 Q Which were located inside cabinets?

15 A Yes, sir.

16 Q And some of them were located in bags?

17 A Yes.

18 Q And the Sheriffs Office has a policy about
19 fingerprints, do they not?

20 A I am not sure what you are referring.

21 Q Do you have a policy at the Sheriffs Office about
22 fingerprints?

23 A Can you tell me what you are talking about.

24 MR. LAUBSHIRE: Your Honor, can I approach the
25 witness again?

1 THE COURT: You sure can.

2 Q Here is a copy of your policy 930.01, I have
3 highlighted the relevant portion. Do you see that now?

4 A Yes, sir. Recovery of latent fingerprints.

5 Q That is a common procedure in a criminal
6 investigation, isn't it?

7 A Yes, sir.

8 Q You do that all the time?

9 A Well, but I mean, it is more done in a larceny or
10 something or some kind of break-in. In this particular
11 case that wasn't done, if that is what you are asking, we
12 didn't do any of that.

13 Q I didn't get there, I may ask you that in a minute.
14 But I am asking you a few other questions though. When
15 you get to the scene and these people tell you it is not
16 theirs, did you take any effort to try and discern who it
17 was by using fingerprint technology that you have?

18 A Not by using the fingerprint method.

19 Q Didn't cross your mind to dust for fingerprints in
20 these areas on the items, containers that they were
21 contained in, just to solve all the dispute here?

22 A Well, due to the uncleanliness of the area I didn't
23 feel that we were able to get fingerprints on it.

24 Q Did you try?

25 A No, we did not try. I just told you that, we did not

1 try.

2 Q So no one made any effort to try to do that, not you,
3 not any of the other officers either?

4 A No, sir.

5 Q Did you make any analysis in your report that
6 indicates the place wasn't clean enough to do
7 fingerprints?

8 A No.

9 Q Have you ever denied to do fingerprints anywhere
10 because the place wasn't clean.

11 A No, I am talking about surface. We didn't feel was,
12 we were able to get fingerprints off of, we didn't feel we
13 could -- I did not mark it there that we tried because we
14 did not try, Mr. Laubshire, we didn't.

15 Q Would have been helpful if you did that, wouldn't it?

16 A Possibly. The chances of us getting fingerprints,
17 DNA off of that stuff is very, very slim.

18 Q But you could have tried?

19 A Well, SLED will not take those analysis.

20 Q You don't have to use SLED, do you?

21 A That is who we use. We use SLED for DNA analysis and
22 they won't take it unless it is a violent crime, a person
23 that is a victim. It has to be like murder or something
24 of that effect.

25 Q I didn't say DNA, I said fingerprints.

1 A Well, I am using both.

2 Q DNA is very different and is very expensive. This is
3 just fingerprints and they can run this through AFIS real
4 easy?

5 A I agree.

6 Q AFIS is --

7 MR. DANIEL: Your Honor, objection. Counsel can ask
8 questions but he is making statements.

9 THE COURT: This is cross-examination, try to make
10 sure that you are, when you are speaking it is a question.

11 MR. LAUBSHIRE: Yes, Your Honor.

12 Q Officer, Lieutenant, I am sorry, Lieutenant Stribble.
13 Eight officers going through a trailer, that is a pretty
14 tight area?

15 A Yes, sir.

16 Q For officers to be working kind of elbow to elbow at
17 times, wouldn't you agree?

18 A I would say it is smaller than a two-story house.

19 Q How many square feet would you say it was?

20 A I don't know.

21 Q 800?

22 A I have no idea.

23 Q How is it possible that eight officers had an average
24 pace, searching a trailer which is fairly small, we know
25 how big it is. How is it possible that none of them found

1 any of this evidence in this case except for you? That is
2 miraculous, wouldn't you saw?

3 A The way you are wording it is very miraculous.

4 Q Almost impossible?

5 A Yes.

6 Q Do you have an explanation on how that happened. We
7 have agents from SLED that are the highest trained law
8 enforcement officers in our State. How did these guys
9 just miss all of these items?

10 MR. DANIEL: Your Honor, again, objection. This is
11 argumentative.

12 THE COURT: It is cross-examination, I am going to
13 allow it. You may proceed.

14 A So other officers participate, they were listed on
15 the search warrant, participating in the search. Okay.
16 The items were then located, photographed and collected by
17 me. Not necessarily all of them located by me, but
18 photographed and collected by me.

19 Q So you don't know which one of these you actually
20 uncovered yourself. It could have been anybody.

21 A What now?

22 Q It could have been any one of these officers that
23 found these items?

24 A Yes. As far as, no. Say that --

25 Q Any one of these officers that we talked about could

1 have been the one to actually locate this item? If you
2 didn't find them all?

3 A Yes, sir. I understand what you are saying. The
4 point I am making is, the items are found, they are
5 located in the residence and then I am notified to come
6 photograph and collect. And then I have possession of it
7 right then.

8 Q Okay. So it is not entirely accurate that you found
9 all of these items yourself?

10 A The way you are saying it is not entirely accurate.

11 Q Help me out. I am asking, did you find, yes or no.
12 Did you find each one of these items in State's exhibit
13 number 32, did you find each one of those items yourself?

14 A No.

15 Q As you sit here today can you tell us which officer
16 actually located each one of those bags?

17 A No.

18 Q Are these the same officers that don't appear on a
19 crime scene log?

20 A Yes.

21 Q Are these the same officers you have no idea what
22 they were doing while they are in this house?

23 A Yes.

24 Q But you were called over there to collect the
25 evidence?

1 A Yes.

2 Q And by collecting it, when you were there, did you
3 put it in that Best Bag in that house?

4 A I did not put it in the Best Bag in the house. We
5 talked about that.

6 Q We did talk about that. And isn't there a policy
7 about collecting evidence when you get it and putting it
8 in a bag?

9 A It was put in a bag, it wasn't put in the Best Bag,
10 it was put in a bag, our search bags.

11 Q So the policy doesn't mean to actually collect it and
12 seal it and put it in a bag where it can't be tampered
13 with?

14 A No. To my knowledge, my understanding of it is, is
15 to properly document it and then place it into evidence.

16 Q That's a bag when it says --

17 A It is not described on the Best Bag --

18 Q -- you don't think that describes the Best Bag?

19 A No, sir. The way I understand it, the evidence is
20 found, photographed, collected; documented and placed into
21 evidence, in a bag into evidence.

22 Q So you got that stuff in the bag and what day did you
23 put it in the first bag, do you remember?

24 A The day that it was done, January the, January the
25 30th.

1 Q The search warrant was done the 30th?

2 A Yes.

3 MR. LAUBSHIRE: Judge, I beg the Court's indulgence
4 for just one moment.

5 THE COURT: Sure.

6 Q I thought the search warrant was executed on the
7 28th?

8 A Hold on. The search warrant was signed on the 28th.

9 Q And executed on the 30th?

10 A Executed on the 30th.

11 Q And what time, do you recall what time you left the
12 residence with these items?

13 A Around 3:00, I left the residence around ten after
14 3:00.

15 Q Okay. Now on your custody sheet that you sent to
16 SLED, it looks like you had it on the 30th and put it in
17 the bag on the 30th, a few hours later. And then back on
18 February 19th of 2020 you got these items back out?

19 A That's correct.

20 Q What was that for?

21 A To do the Best Kit.

22 Q Can you explain that to me?

23 A To do the Best Kit. I mean it was, all of those
24 items right there, it is a lot of paperwork and takes a
25 little time to do it. So that is when I had a chance to

1 do it. And as I mentioned, SLED was not accepting
2 evidence at all.

3 Q So they weren't in the tamper free bag?

4 A They were in a sealed bag in evidence.

5 Q But not --

6 A -- not in the Best bag at the time, no.

7 Q If that bag is so good why didn't you just give it to
8 SLED in that bag. Why did you put it in the tamper
9 evidence bag?

10 A Because that is their policy, to put it in their bag.

11 Q That is the policy for evidence going to SLED?

12 A That's correct.

13 Q Highest law enforcement in the State, correct?

14 A That is your opinion.

15 Q They have a special bag, right?

16 A Yes.

17 Q And they only accept that bag because it is --

18 A -- no, they have other ways of accepting drug
19 evidence that is the bag, if we can fit it in their bag.
20 So we put it in a big ole box if it is a lot. You know,
21 if it is more than that bag will hold.

22 Q So they would have taken it without that additional
23 bag?

24 A They would have taken drug evidence, I am assuming,
25 without that particular bag. That is a bag they use but

1 if you have got like, you know, so many pounds of
2 marijuana --

3 Q -- we don't have that in this case. I am asking you
4 about this case.

5 THE COURT: Let him finish.

6 A If you have so much evidence that will not fit in
7 that bag then you have to get it to them to be analyzed.
8 Their way of accepting it would be, they would tell you
9 then exactly how to do it. I am not exactly sure what
10 their principals on that would be. I would assume it had
11 to all be, you know, sealed and properly marked as far as
12 the way the box is done.

13 Q Thank you but I would like to ask you about this case
14 though. Would they have accepted these items in anything
15 other than that bag?

16 A I would not have taken those items in anything but
17 that bag because that is the way it fits it.

18 Q And that is their policy that you know of?

19 A That I know of.

20 Q The location of these items that you found in the
21 home, you said you found them in the kitchen drawers where
22 you found the ID. Is that right, did I misunderstand
23 that?

24 A There were some items found, let me take a look at
25 this.

1 Q I think it was specifically the ID and the social
2 security card. Is that correct?

3 A What I am trying to say is, that wallet and that ID
4 was found near some of what was found inside the kitchen
5 cabinet. The cabinets were here, the drawers are down
6 here.

7 Q Okay. And that was above the refrigerator?

8 A I don't know, above the refrigerator?

9 Q I am asking you. Where did you find the items that
10 were in the cabinets. Where were they?

11 A Can I see the picture.

12 MR. LAUBSHIRE: I can show him a photo, Judge, if I
13 can approach.

14 THE COURT: Sure.

15 MR. DANIEL: Your Honor, I can't hear. He can pull
16 up and say the number and we will publish it on the TV so
17 the jury can look at it.

18 A Number 12.

19 THE COURT: Pull up number 12, Mr. Bentley.

20 Q This is where you found the cup?

21 A It is one of the cup's. And there is a bar section
22 here and then, it would be right here.

23 Q This is number 12.

24 A That is number 12.

25 MR. LAUBSHIRE: Judge, I will get more photographs to

1 clear this issue with number 12.

2 Q Can you review these photos and tell me where the
3 kitchen drawers are that you found the ID?

4 MR. DANIEL: Your Honor, can Mr. Laubshire please
5 identify that he is asking Mr --

6 THE COURT: I think he has just handed him a batch.

7 A I don't --

8 Q So you don't see any --

9 THE COURT: Whoa, neither one of you interrupt me
10 when I am talking, please. Solicitor, I think Mr.
11 Laubshire handed him a stack of photos for him to go
12 through and I assume when you -- in order to answer his
13 question you would identify that photo.

14 MR. DANIEL: Thank you, Your Honor.

15 MR. LAUBSHIRE: Thank you, Your Honor, I apologize.

16 THE COURT: No problem.

17 Q So in these photographs you couldn't see any drawers
18 located in the kitchen?

19 A No, sir.

20 Q Isn't it true that there are no drawers in the
21 kitchen?

22 A None from what I see in those photos, no sir.

23 Q And you took the photos?

24 A Yes, sir.

25 Q You didn't take a photo of the drawer where you found

1 these ID's and social security card?

2 A No, sir.

3 Q Based on the photos, would you agree with me there
4 are no drawers in the kitchen?

5 A It could have been they were in that cabinet area, I
6 am not, I am not understanding what you are -- they were
7 found in that area.

8 Q Your testimony was --

9 A -- I don't think the photos dictate exactly where
10 that is at, is what I am saying.

11 Q Well, the photos show there are no drawers in the
12 kitchen, do they not?

13 A Yes.

14 Q And your testimony was that you found an ID and a
15 social security card in the drawer in the kitchen. I am
16 asking you how it is possible, first question, is how is
17 that possible if there are no drawers in the kitchen?

18 MR. DANIEL: Your Honor, I am going to object, that
19 is misleading. There are no drawers depicted in the
20 photos, he is asking are there drawers in the kitchen. He
21 needs to make a distinction.

22 THE COURT: Well, I think probably what you can do,
23 is you can maybe try to clear that up on redirect. Now,
24 do we have a question or do we have an answer.

25 MR. LAUBSHIRE: He objected, I was waiting for my

1 answer.

2 THE COURT: Repeat the question again.

3 MR. LAUBSHIRE: Yes sir, Your Honor.

4 Q How did you find an ID and a social security card in
5 a drawer in the kitchen when there are no drawers in the
6 kitchen?

7 A The ID was found in the kitchen, they could have been
8 found described as a drawer maybe, possibly. But to, you
9 see the condition of the living arrangements in the house.
10 I mean, who is to say what is what there. That is what I
11 am getting at.

12 Q Do you have any photos of the home before you
13 executed the search warrant and did maybe put anything in
14 disarray. Do you have any pre-photos?

15 A Every photo I have you have got.

16 Q I am asking, do you have any photos --

17 A -- I don't have any photos in front of me, no.

18 Q So there is no photo of the home before you executed
19 --

20 A -- that is not what I said, I don't have the photos
21 in front of me right now to look at.

22 Q So you do have photos?

23 A You have the same photos I have.

24 Q I have the same photos you have. I am asking, are
25 there additional photos that you took before you executed

1 the search warrant?

2 A No, sir.

3 Q You have these people secured outside. They have
4 been read the Miranda rights, they have been read the
5 search warrant. Do you look in the front door and snap
6 photos of the home before you move anything around?

7 A Correct.

8 Q You did that?

9 A There were photos taken, yes.

10 Q I understand there were phots taken. I am asking you
11 about the --

12 A -- do they show every little nook and cranny in the
13 house, probably not.

14 Q The guys in the house moving things around certainly
15 can make a house look pretty messy pretty fast. So I am
16 asking you, are these photos before or after the execution
17 of the search warrant?

18 A Those photos, depends on which ones you are asking
19 about. When you first get to the scene there is a series
20 of photos taken.

21 Q On the outside?

22 A The outside and the inside. Just to a general shot,
23 you know, just showing that this is the area.

24 Q I am asking you, were they before everyone entered
25 the home to search it or were they after?

1 A I am saying that they were done, some of them were
2 done prior to the search and then while we were searching,
3 as we were searching.

4 Q So you really don't know which photos go with which
5 part of the search?

6 A No, sir.

7 Q There is no way to concern that?

8 A Say that again.

9 Q There is no way to concern that, they weren't labeled
10 when you put them in, these are pre-searched, the search
11 was after?

12 A No.

13 Q I want to go back to that ID card, it was your
14 testimony that you found it in the drawer?

15 A And I may have said in a drawer, mistakenly in a
16 drawer, when it was found in that area in the kitchen.

17 Q By who?

18 A It was located, documented by me. Who it was found
19 by, I can't tell you.

20 Q You don't know --

21 A -- I am saying I actually photographed, documented it
22 and seized it.

23 Q So you don't know if anybody moved it?

24 A No, sir.

25 Q Did you ever ask anybody?

1 A No, sir.

2 Q And you don't know who actually found it?

3 A No, sir.

4 THE COURT: Mr. Laubshire, how longer are you
5 anticipating your cross-examination. I am not going to
6 hold you to any particular time, I am trying to get a feel
7 to know, after redirect and we might take a little bit
8 later lunch. It is already 1:15.

9 MR. LAUBSHIRE: I have no objection to taking a
10 break.

11 THE COURT: What I am getting at is that I think a
12 good stopping point would be after we conclude the cross
13 before we go into redirect. I am just trying to get a
14 feel. I am not going to hold you to anything.

15 MR. LAUBSHIRE: Maybe five or ten minutes, maybe.

16 THE COURT: Okay.

17 MR. LAUBSHIRE: I do need, with the Court's
18 indulgence, confer with my client.

19 THE COURT: Sure, no problem. I think we get to
20 about 1:30 and still not finished we will probably go
21 ahead and break for lunch.

22 MR. LAUBSHIRE: Yes, Your Honor.

23 Q I want to go back to these officers because we don't
24 know who found the ID, don't know if it was moved. I want
25 to ask you, what precautions were taken and what

1 chain-of-custody was produced to the officers who did find
2 these items. Let's just say, for example, let's use the
3 Major. Say the Major had found the ID and you are going
4 to put it into evidence. Why isn't there a
5 chain-of-custody where the Major found it, touched it and
6 had it and where he found it and had it?

7 A Because the way, the way it is explained to me, the
8 chain starts when it is actually seized. In other words,
9 so it could be located by Major Dennis; I photograph and
10 document it, collect it, seize it. I am the one where the
11 chain is.

12 Q But isn't it true that if the officer finds it is the
13 first officer who actually seizes it.

14 A Who seized it, observes it.

15 Q So he seized the item?

16 A He finds it.

17 Q And they directed you to it or picked it up or what
18 security measures did we take?

19 A They, come photograph it, document it, collect it,
20 seize it.

21 Q But there was no precaution taken so we know who
22 found what?

23 A No, sir.

24 Q And isn't it true that your policy warns about that
25 kind of thing, to make sure that these things are

1 collected?

2 A It was collected.

3 Q And improper things happen when proper procedures
4 aren't followed regarding the collection of evidence.

5 MR. DANIEL: Your Honor, objection, argumentative,
6 characterizing as improper.

7 THE COURT: Rephrase your question, Mr. Laubshire.

8 Q Doesn't the policy say that you should collect these
9 items at the scene and notate who found it and located it?

10 A Yes.

11 Q And that wasn't done in this case, was it?

12 A No.

13 Q And we have no way to call those officers to find out
14 what they found and where they found it?

15 A No, sir.

16 Q And there is no other chain-of-custody in this case,
17 just this one?

18 A That's it.

19 Q And by looking at this, it looks like you were the
20 one that found everything and we have already found it is
21 not true --

22 A -- if that is what you, no, I didn't find everything.

23 Q And based on the information that you do know, based
24 on the information that you do know, you can't account
25 yourself for anybody else's actions but your own?

1 A That's correct.

2 MR. LAUBSHIRE: Judge, if I can have a minute to talk
3 to my client. I have just a short series of questions to
4 discuss with the officer, if that is all right.

5 THE COURT: Sure.

6 Q Officer Stribble, I know it is in the report, under
7 the privacy and collection, there is a section for
8 sketches?

9 A Again?

10 Q There is a section for sketches, crime scene sketch
11 which would draw out the house and where the stuff was
12 found. Did anybody do that?

13 A No, sir.

14 Q Why didn't you follow the policy?

15 A It wasn't in my investigation when I completed it.

16 Q No one did a sketch at all?

17 A No.

18 Q Not even a rough sketch?

19 A No.

20 Q Doesn't the policy require a sketch in crime scenes?

21 A I am not sure, that policy is not in front of me.

22 But if you say so, yes sir.

23 Q I don't want to mislead you.

24 A No, if you say it is, it is in there.

25 Q That is what the policy says and it wasn't done.

1 MR. LAUBSHIRE: Judge, I have no further questions
2 for this witness.

3 THE COURT: I think probably this would be a good
4 time to break for lunch. Do you have an idea, Solicitor,
5 about how long your redirect would take. I am not going
6 to hold you to it. If it will be past 1:30 it will be a
7 good time to break.

8 MR. DANIEL: Your Honor, I can be very -- what I need
9 to address from that cross-examination.

10 THE COURT: Okay. All right.

11 MR. DANIEL: 10 to 15 minutes at the most.

12 THE COURT: Ladies and gentlemen of the jury, y'all
13 good for another 10 or 15 minutes. Is anybody not good
14 with that?

15 (No response.)

16 REDIRECT EXAMINATION

17 By Mr. Daniel:

18 Q Lieutenant Stribble, crime scene tape in a drug case,
19 I saw the Highway Patrol searching a car for drug
20 evidence, I didn't see crime scene tape around the
21 vehicle. Is that something that is done in a drug case,
22 crime scene tape?

23 A No, sir. In my 20 years I have never seen in a drug
24 case.

25 Q Okay. And crime scene tape, that is to preserve the

1 integrity of the crime scene so it can't get contaminated
2 if you had, for instance, bodily fluids, things like that.
3 Is that correct?

4 A That's correct.

5 Q And pull up State's 24, Mr. Bentley. I don't want to
6 get to the semantics or how we word things necessarily.
7 But the way I understood your testimony is your primary
8 responsibility was taking photographs of the drug evidence
9 and ultimately collecting the evidence from the scene and
10 then log it in at the Sheriffs Office?

11 A That's correct.

12 Q So State's 24, you weren't wearing a camo that day,
13 were you?

14 A No, sir.

15 Q Would that be a SLED agent in that camo outfit?

16 A I would assume so, yes.

17 Q So he was assisting you, correct?

18 A That's correct.

19 Q So you weren't necessarily the first person to come
20 upon the drugs, law enforcement officer to come upon the
21 drugs. But in any event that law enforcement officer who
22 did find the drugs first, said, hey, I found drug
23 evidence. And you would walk over there. Is that not
24 correct?

25 A That's correct.

1 Q And then you photograph it, and then collect it and
2 put it in those evidence bags. So that is you taking a
3 photograph and that is a SLED agent holding up the drug
4 evidence?

5 A That's correct.

6 Q Okay. So when we say seize the drugs, that doesn't
7 mean you were the first person to locate it, it just means
8 that you ultimately collected it. Is that right?

9 A That's correct.

10 Q Glad we got that cleared up. And in terms of, there
11 were drawers in the kitchen, in some capacity, correct?

12 A Yes.

13 Q Okay.

14 A Every kitchen has drawers.

15 Q And those photographs Mr. Laubshire never identified,
16 that he showed you, he was showing you photographs that
17 did not depict drawers, right?

18 A That's correct.

19 Q But in reality that kitchen had drawers?

20 A That's correct.

21 Q Okay. Kendrick Blackwell's social security card,
22 bank card, power bill in his name, were found throughout
23 the residence, correct?

24 A That's correct.

25 Q Mr. Laubshire asked you about surveillance of this

1 property and connecting Kendrick Blackwell to it. Is that
2 right?

3 A That's correct.

4 Q About two days prior, January 28th, I believe the
5 door was open, didn't you have surveillance of that
6 property?

7 MR. LAUBSHIRE: Your Honor, objection.

8 THE COURT: What is your objection?

9 MR. LAUBSHIRE: Can we have a sidebar?

10 THE COURT: Yes.

11 (Whereupon, a bench conference was held in the
12 presence of the jury but out of the hearing of the
13 jury.)

14 THE COURT: Ladies and gentlemen, I am going to go
15 ahead and send you on to lunch. I have an issue that I
16 need to deal with the lawyers on. So it is almost 1:30,
17 be back here at 3:00 o'clock. I want to ask you one
18 thing, I want to ask you, if you were to go to a local
19 restaurant, make sure your juror badges are visible. The
20 reason why I ask you to do that is that, the lawyers or
21 people connected to the case may be in that same
22 restaurant and may not recognize you as being on the jury,
23 maybe talking about this case and we certainly don't want
24 you to overhear anything that may be discussed. So if
25 they see that big green juror badge, keep it visible so

1 they will know not to talk loud enough where you can hear
2 any discussions, if that were to happen. No discussions
3 about this case, have a good lunch and see you back at
4 3:00 o'clock.

5 (Whereupon, the jury was excused from open court for
6 a lunch break.)

7 THE COURT: We are back on the record. And, Mr.
8 Laubshire, you made an objection after Solicitor Daniel
9 made some preface to his question that Mr. Laubshire asked
10 about surveillance or something to that effect. And that
11 you objected, okay, so let me hear your objection.

12 MR. LAUBSHIRE: Yes, Your Honor. During
13 cross-examine I asked the arresting officer, again, if he
14 had done surveillance for the people that I listed to see
15 if they had gone in and out of the house including the
16 mystery person we have an ID for but don't have any ID who
17 it is. What the Solicitor was going into was the
18 surveillance and controlled buy, which the Court has
19 already ruled on is not part of this case, that at the
20 beginning of this case it was a search warrant. And but
21 they are saying I opened the door to it by asking a
22 question about surveillance. I did particularly ask about
23 surveillance, what I didn't particularly ask about was a
24 controlled buy.

25 THE COURT: Right. And I think at the brief sidebar

1 we had, I think, Solicitor, you indicated that you were
2 still not going to get into the controlled buy, that you
3 were just going to ask him that surveillance had been done
4 a couple of days before.

5 MR. DANIEL: That's correct, Your Honor. To be
6 honest I think case law, he has opened the door if you
7 look at State v. Wilson but I would take a more
8 cautionary, if you look at State v. Wilson, 345 SC 1. But
9 I am not going to do that, Judge, I think what I really
10 wanted to get out is January 28th, there is surveillance
11 evidence that Investigator Stribble was a part of that
12 connects Kendrick Blackwell to that property. Going back
13 to April of 2019, they were under surveillance again
14 connecting Kendrick Blackwell to that property. He is
15 intimating third party guilt. He is acting like there are
16 multiple people that could have resided at this residence.
17 He has already insinuated that. I am just, I want to
18 point out that there are four incidents where Investigator
19 Stribble participated in the surveillance of that property
20 where Kendrick Blackwell is the only identifiable subject
21 of that property. I don't even have to say the word,
22 controlled buy.

23 MR. LAUBSHIRE: Judge, if they are going to put it
24 in, give us the video so we can use it to cross-examine.

25 MR. DANIEL: I am not putting it in.

1 THE COURT: Wait a minute now. Tell me that again.

2 MR. LAUBSHIRE: You can't go into the surveillance
3 and not give us the video of the surveillance. Say we did
4 surveillance but we are not going to tell you about the
5 surveillance, where we did it or how we did it. We are
6 going to hide all of those videos and not give you a copy.
7 Once I cross-examine on those videos, we should have those
8 videos. His answer was, they didn't do any surveillance.
9 What they did was controlled buys. That is not
10 surveillance.

11 THE COURT: Right. Well, and he has already
12 acknowledged that he is not going to get into any evidence
13 about controlled buy and I would agree with that. But the
14 fact that you did ask Lieutenant Stribble about
15 surveillance, I think it was a general question and you
16 may have honed into all these other people and this sort
17 of thing, he did not identify or know. But the fact that
18 you did ask about surveillance, I think the door was
19 opened enough, again, not to allow any evidence about the
20 controlled buy but that, in fact, there was prior
21 surveillance done of the home. I think by virtue of you
22 asking that, that did open the door to allow the
23 limitation without getting into any sort of controlled buy
24 but the surveillance of the property of several occasions
25 linking into the property. I think you did do that.

1 MR. LAUBSHIRE: All we have is the answer he gave me
2 was, no. Now his answer is going to be, yes. Not only
3 yes but I am not going to let you see the surveillance.
4 He already told us he didn't do it.

5 THE COURT: Let me ask you this. And certainly, if
6 Solicitor Daniel asked him, did you do some surveillance
7 and he said yes. Then you can come back and recross and
8 say, wait a minute, which is true. Did you do it or you
9 didn't do it. But now, so, is the surveillance video of
10 these other situations, I know that there is a video of
11 the controlled buy. I know that, laying that to the side.
12 But do you have some, is there some video surveillance?

13 MR. DANIEL: Yes, sir. And, again, you have seen the
14 January 28th and then --

15 THE COURT: January 28th is the buy?

16 MR. DANIEL: Yes, sir. There are three other
17 incidents in 2019; April 16, April 25 and July 23rd. That
18 is surveillance.

19 THE COURT: And what does that video show?

20 MR. DANIEL: Those are the distribution charges.
21 But, again, I will characterize it as surveillance. He is
22 acting like there is nothing to connect Kendrick Blackwell
23 to this property through surveillance. And I think maybe
24 Lieutenant Stribble --

25 THE COURT: Why would you want to cross-examine

1 Lieutenant Stribble with those videos, with the video
2 showing a distribution. Why would you want to do that,
3 Mr. Laubshire?

4 MR. LAUBSHIRE: I don't, I haven't seen those videos.
5 What his answer was, when I asked him about surveillance,
6 I haven't seen the videos so it is hard to make a judgment
7 call.

8 THE COURT: Okay. Not that I am going to allow those
9 in. You know I will require the State to present those
10 videos to you and let you look at them. But if Solicitor
11 Daniel says they are videos of distribution activity then,
12 it just seems like to me you would want to stay clear of
13 that, wouldn't you. You want to look at them and see,
14 that is fine. I am not making any sort of ruling as to
15 admissibility. What I am going to allow the State to do
16 is ask him, that there were surveillance done on these
17 various occasions. I will allow that without getting into
18 any control buy situation. And then you have the right to
19 recross, to come back and try to attack his, I am not
20 suggesting that you are, you lied, I am not suggesting
21 that, Officer. Please understand that. But ask him, wait
22 a minute, you said no here, now you say yes. What is the
23 truth.

24 MR. LAUBSHIRE: I think the issue is that these
25 controlled buys and I haven't seen them. What they are is

1 not surveillance videos at all, it is a
2 mischaracterization, misrepresentation to the Court. This
3 is not a surveillance video, this is just a guy wearing a
4 body cam going in the house. This is not a shot of the
5 house.

6 THE COURT: Let's do this. Provide over lunch these
7 videos and let Mr. Laubshire take a look at them and if it
8 is something I need to look at I will be glad to do it and
9 see if they are, in fact, surveillance videos or if they
10 are strictly videos of controlled buys. And I think there
11 would be a distinction there.

12 MR. DANIEL: Well, Judge, I just want a yes or no
13 answer. Did you surveillance him being on this property
14 on four other occasions prior to January 30th. Yes or no
15 and the answer is just yes and I will leave it alone.

16 MR. LAUBSHIRE: He has already said no once.

17 MR. DANIEL: Those questions on cross were incredibly
18 confusing. I think he said no, he didn't mean to say no.

19 THE COURT: I think that is one role is to sometime
20 to be a little confusing. I am not going to fault Mr.
21 Laubshire for that. Well, before I make a ruling take a
22 look at these videos and if they are what Mr. Laubshire
23 suspects them to be then I will make a ruling on it. okay.
24 And if we need a little more time so y'all can still get
25 some lunch to look at those videos, I assume that they

1 would not be lengthy, I would suspect not. Provide them
2 to him and then we can get into after lunch. Okay.

3 (Whereupon, a lunch break was taken.)

4 THE COURT: We are back on the record. And,
5 Solicitor, I understand that you and Mr. Laubshire have
6 worked out an agreement as far as handling the issue of
7 those videos?

8 MR. DANIEL: We have, Your Honor. And the State will
9 fashion its examination of this issue to simply asking
10 Lieutenant Stribble on four prior occasions. And I will
11 list those specific dates. Did the Sheriffs Office engage
12 in surveillance related activity that would connect the
13 Defendant to the property in question. And if the answer
14 is yes, I don't have any followup.

15 THE COURT: Okay. Mr. Laubshire, is that correct?

16 MR. LAUBSHIRE: Yes, sir.

17 THE COURT: Let's bring the jury out.

18 (Whereupon, the jury came into open court at
19 approximately 3:15 p.m.)

20 THE COURT: Let the record reflect the jury is back
21 in. It is looking like maintaining the same seats. I saw
22 a juror in a restaurant and they followed my instructions,
23 by keeping the badge on so I do appreciate that.
24 Solicitor, we are still on redirect I believe, you may
25 proceed.

1 MR. DANIEL: Yes, Your Honor. Thank you.

2 CONTINUE REDIRECT EXAMINATION

3 By Mr. Daniel:

4 Q All right, Lieutenant Stribble, where we left off. I
5 ask you about on cross-examination, the Defense Attorney
6 asked you about any surveillance that the Sheriffs Office
7 engaged in that would connect his client, Kendrick
8 Blackwell, to that property, [REDACTED] Highway 219. Is that
9 correct?

10 A Yes.

11 Q Let me ask you this. Did you have, did the Sheriffs
12 Office in fact engage in surveillance related activity on
13 a previous occasion or occasions to connect Mr. Blackwell
14 to that property?

15 A Yes.

16 Q Okay. And I am going to hand you these reports to
17 refresh your memory. What, exactly how many other
18 occasions and what dates, if any, did the Sheriffs Office
19 engage in surveillance related activity on that property
20 that would connect Mr. Blackwell to that property?

21 A Yes, sir. April 16th of 2019; April 25th, 2019; and
22 July 23rd, 2019; and January 28th of 2020.

23 Q So as recent as two days prior to y'all going in with
24 a search warrant y'all engaged in surveillance connecting
25 Mr. Blackwell to that property?

1 A That's correct.

2 Q And you only connected Kendrick Blackwell to that
3 property?

4 A That's correct.

5 Q Did you connect any other individual that Mr.
6 Laubshire referenced on cross to that property?

7 A No.

8 MR. DANIEL: No further questions.

9 THE COURT: Any recross?

10 MR. LAUBSHIRE: Yes, Your Honor.

11 RECROSS-EXAMINATION

12 By Mr. Laubshire:

13 Q Lieutenant Stribble, I asked you on cross-examination
14 if you did any surveillance and your testimony to me was,
15 did not?

16 A That's correct.

17 Q And now you have changed your testimony to include
18 that you did?

19 A I didn't do any surveillance prior to that search
20 warrant as far as that particular day and time, an hour
21 per hour of a day.

22 Q Okay. The surveillance that you are talking about,
23 was it for hours or just a few minutes?

24 A April 16, of 2019; 20 minutes. On April 25th of
25 2019, 20 minutes. A little more than that on July 23rd,

1 2019. And then on January 28th, it was approximately 20
2 minutes.

3 Q So all that time, basically 60 minutes total for all
4 that time?

5 A About 80 minutes, 20 times 4.

6 Q That is what he gave you to refresh your memory, that
7 is the report and memorialization you made for these
8 events?

9 A That's correct.

10 Q Can you look down on number one line where it has
11 Blackwell's name, Kendrick Blackwell.

12 A That's correct.

13 Q The address that you have him living at?

14 A That's correct.

15 Q What is the address you have him living at?

16 A The reason the address is --

17 Q No, I am asking you what the address you have him
18 living at is, what address --

19 A [REDACTED] Palm Lane.

20 Q That is not the address we are talking about?

21 A Sir?

22 Q That is not the address of the home you are talking
23 about in this case?

24 A No, sir.

25 Q But you wrote down that he lives at [REDACTED] Palm Lane in

1 the report?

2 A Can I respond?

3 THE COURT: Yes.

4 A Okay. So the incident location is the top line where
5 the [REDACTED] Highway 219. And that is the incident location
6 on all four of these. When these reports were wrote, at
7 that particular time that was his address in the LawTrak
8 system which is our report writing system. So it is
9 automatic. So I didn't change that address because I
10 didn't know at that time, one-hundred percent that that
11 was it. And then in the one in January I just didn't
12 update it yet.

13 Q So even in these reports you didn't believe that he
14 lived there, when you wrote these reports?

15 A I am not saying I didn't believe that. That is
16 common for someone to have several different addresses in
17 our computer. Honestly there could be two or three
18 Kendrick's in our system, until we get it updated is what
19 I am trying to get it.

20 Q So you didn't update his address?

21 A Hadn't been updated at that particular time, no sir.

22 Q When you went to the academy they trained you on the
23 accuracy of police reports, did they not?

24 A Yes, sir.

25 Q And they trained you extensively on that?

1 A At that particular time that is what I, I thought
2 that was his address.

3 Q So on the 28th, two days before this when you went to
4 get a search warrant for this property you told the Judge
5 that he lived at the address of [REDACTED] S.C. Highway 219 in
6 Newberry, right?

7 A I didn't tell him he lived there, no. The activity
8 that was going on is what the search warrant was about.

9 Q So at that time you didn't believe he lived there?

10 A No, sir.

11 Q Now, the Prosecutor had asked you about this crime
12 scene tape. He asked you about --

13 A I didn't hear you, I am sorry.

14 Q The Prosecutor asked you on redirect about this crime
15 scene tape issue and he characterized it as, he had never
16 saw the Highway Patrol put crime scene tape around a car.

17 A Unless he is talking about a car accident.

18 Q I guess, I don't know what he is talking about. But
19 I am asking you, directly, you have never seen a Highway
20 Patrol do that, right?

21 A No.

22 Q That is a car, isn't it, they deal with traffic
23 accidents and traffic stops?

24 A Yes.

25 Q We are not talking about a car here, are we?

1 A No, sir.

2 Q It is a house?

3 A Yes, sir.

4 Q It is very different, isn't it?

5 A Yes, sir.

6 Q And if you stop a car you don't have to get a search
7 warrant to search the car if you stop the car for a
8 traffic violation, do you, to search the car. In this
9 case you have to get a search warrant, don't you?

10 A Yes.

11 Q So they are very different circumstances?

12 A Yes.

13 Q Very different rules apply to those two things, don't
14 they?

15 A I agree.

16 MR. LAUBSHIRE: Judge, can I have the Court's
17 indulgence for a minute to ask my client a question?

18 THE COURT: Sure.

19 MR. LAUBSHIRE: Judge, no further questions.

20 THE COURT: You can step down, sir. Solicitor, call
21 your next witness.

22 MS. BOYKIN: Your Honor, the State calls Major Robert
23 Dennis.

24 Robert Dennis, being
25 first duly sworn, testified as follows:

DIRECT EXAMINATION

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

By Ms. Boykin:

Q Major Dennis, you said you work at the Sheriffs Office, is that correct?

A That is correct.

Q And how long have you worked there?

A I have been there since about 1995. Before that I worked for the City of Newberry and Prosperity Police Department.

Q So how long have you been in law enforcement?

A About 27 years.

Q And what are your duties at the Sheriffs Office here?

A At present my major duty is I am over the Newberry County Detention Center. I am also over the Victim Advocate Program as well as oversee the Investigation Unit for Newberry Sheriffs Office.

Q So your title is Major, is that correct?

A That's correct.

Q So you have a supervisory role?

A I do.

Q And so are you, I guess you supervise most of the, I guess, investigators at the Sheriffs Office?

A That is correct. We have at least six investigators and they investigate anywhere from a petty larceny to a homicide. We also deal with problematic situations and

1 try to come up with a solution in the best interest of
2 those folks that file a complaint with us. Outside of
3 that I have a victim's advocate that also works under us.
4 That any of the cases that we have a victim, that
5 individual reaches out to help them through the court
6 process, for the recoupment of any loss or counseling they
7 may need.

8 Q So obviously you were working back in January 30th of
9 2020?

10 A That is correct.

11 Q Okay. So did you happen to become involved in this
12 case against Kendrick Blackwell?

13 A I did.

14 Q And tell me a little bit about how you came involved
15 in this case?

16 A So overseeing an investigation unit which includes
17 the narcotics unit, narcotics investigator, they come to
18 me and keep me updates on the cases of what they are
19 getting ready to do. And some of that deals with either
20 issuing arrest warrants or issuing search warrants. So I
21 was made aware that they were going to do a search warrant
22 at Mr. Blackwell's residence.

23 Q And do you remember the address of that residence?

24 A Yes. It was [REDACTED] S.C. Highway 219 at the Newberry
25 section of Newberry County which is past Willingham's

1 going out toward the interstate of I-26.

2 Q On January 30th did you participate in the execution
3 of that search warrant?

4 A I was present, yes.

5 Q I guess, about what time did y'all go to the
6 residence?

7 A Looking at the report it looks like we, dispatch
8 time, our arrival time was around 2:27 p.m. on January
9 30th.

10 Q And I know the Defense Attorney mentioned something
11 in previous questions, is there a meeting that happens
12 before y'all go out to a scene to execute a search
13 warrant?

14 A It is. And it kind of depends on the situation of
15 the residence and what you are dealing with. If we have
16 what we call a high risk search warrant that may entail
17 that we gathered information of violent individuals that
18 may have guns or multiple people there at the residence
19 then we may call in what we call a CIRT Team which is a
20 critical incident response team. Those individuals who
21 are certified for layman's term, SWAT. So those
22 individuals would end up suiting up with special body
23 gear, body armor, armed with shields, rams, different
24 things like that and make entry, if there should be a lock
25 to the door or a lock to the door that we are unable to

1 make entry. This was not that type of situation. This
2 was a situation where we felt comfortable with our
3 investigators, a couple of our road people; we also had
4 SLED which is South Carolina Law Enforcement Division;
5 some of those officers come down and participate, not only
6 on the search warrant but other activities that we had
7 going on that day.

8 Q So I believe, were there other cases that y'all were
9 also working on that day besides this one?

10 A We were doing what we call a crime suppression where
11 we kind of hook up with other individuals, law
12 enforcement, the City of Newberry; whether it is South
13 Carolina Law Enforcement Division; Probation is a great, a
14 team to team up with with them. And we got out and pretty
15 much to either attempt arrest warrants or we patrol the
16 area that we have had a constant complaint or problems.
17 And so what was, what our duty was going to be throughout
18 that afternoon and maybe into the night.

19 Q So on January 30th you go to Kendrick Blackwell's
20 residence. Who was present when you arrived? Who was at
21 the residence when y'all got there?

22 A So when we arrived at the residence, we had officers
23 go to the door and they made contact with Kendrick
24 Blackwell and a female, I am looking at my notes here. I
25 know her first name is Iyeshia, Iyeshia Sims.

1 Q Okay. I am going to show you State's exhibit 6. Is
2 that a picture of you right there, Major Dennis?

3 A I would say so. Yes, I have seen the original photo,
4 yes, that is me.

5 Q And that is the two individuals you just testified
6 were there with you?

7 A Yes. That is Kendrick Blackwell, he is seated on the
8 ground. And then that is Iyeshia standing up.

9 Q Do you see Kendrick Blackwell in the courtroom today?

10 A I do.

11 Q Could you point him out for us?

12 A He is seated over next to Mr. Laubshire wearing a
13 white shirt, blue mask and kind of grayish looking tie.

14 Q Okay.

15 THE COURT: Let the record reflect he has identified
16 the Defendant.

17 Q Major Dennis, what are you doing in this picture
18 right here?

19 A I had to issue the search warrant and I was reading
20 it to Mr. Blackwell so he would understand why we were
21 there.

22 Q And so what other, I guess, roles did you play when
23 you were at the residence that day. Did you help with the
24 search?

25 A After doing it and typically what we do, we kind of

1 walk through the residence and get an idea of what is
2 inside, how it looks at the time. And then I come back
3 out. So my role is pretty much stationed outside, kind of
4 around the outside perimeter.

5 Q But you did do a walk through of the residence?

6 A That is correct.

7 Q Okay. And when you were at the residence and did
8 that walk through who, who did you observe to be living at
9 the residence at that time?

10 A Kendrick Blackwell.

11 Q I guess, were you, to your knowledge, do you
12 remember, were you present when the drugs were seized or
13 packaged up at the residence?

14 A I was on the scene but as far as being in the house
15 whenever they were located, I did not see that process.
16 That process would be done by Investigator Ryan Dickert as
17 well as Lieutenant Michael Stribble.

18 Q Okay. So you mentioned that there were two other
19 officers kind of in charge of that. Before you execute a
20 search warrant do y'all kind of divvy up the different
21 roles that each of the people do?

22 A We do. One of the main things that you try to do,
23 you know, do a walk through so you can see things. The
24 walk through also allows you to make sure that there is no
25 other arms or threats in the area. So once that is done

1 then we allow, whether it is one person or two persons,
2 sometimes we will take two people. One to photograph all
3 the outside, exterior or sheds or vehicles that are there.
4 And then we may have one that would come inside. Just
5 kind of depends on how many people we have available.
6 That particular day there was probably at least two
7 cameras available. So that way whenever the assignments
8 were divvied up for individuals to search either into the
9 rooms, kitchen, bedroom, bathroom; if they discover
10 anything they would give a shout out to Lieutenant
11 Stribble for him to come and document by him seeing it, by
12 him photographing it, and then by him seizing. So that
13 way that kind of cuts down on the chain that we have to
14 maintain of evidence.

15 Q So the chain you have to maintain, I guess with
16 evidence. What do you mean by that?

17 A So it is kind of like this piece of paper. If I am
18 the one that found this piece of paper that was here on
19 the witness stand, I have gained control over it and it is
20 in my chain-of-custody, it is in my possession. But if I
21 was to give it to you for you to go do something with it
22 then I have got to list that exchange from myself to the
23 Solicitor and then where ever it goes from there. So you
24 want to be able to show from whose hand it goes each time.
25 That way that shows that chain-of-custody, when ever we

1 take it to SLED or whatever, other laboratories we use for
2 testing.

3 Q Is that why you choose only one officer on the scene
4 to seize the items?

5 A Yes, that is correct.

6 Q So I know, you mentioned that you read the search
7 warrant to Kendrick Blackwell, is that correct?

8 A That is correct.

9 Q And then so since you read it do you then sign the
10 return on a search warrant?

11 A I would have to look and see if I actually was the
12 one that signed it. Sometimes I am, sometimes I may hand
13 it off to someone else. But as long as we are reading it
14 to get that understanding and why we are there, even
15 though it may be another person to do that or any other
16 person sign off on it.

17 Q But you were able to observe what all was seized from
18 the house that day?

19 A That is correct.

20 Q Okay. I want to show you State's exhibit 33. I need
21 to get my mask. Do you recognize that, Major Dennis?

22 A These are several scales that were located in the
23 house. And I would have to look at the search warrant. I
24 may be able to tell you from my incident report where
25 exactly they were located. So it looks like some of these

1 were kind of spread out from Kendrick Blackwell's bedroom
2 that was identified and then the kitchen area of it that
3 we have identified. All of them were either found in
4 different locations but they had been combined in where
5 ever they find.

6 Q And what is the total amount of scales there?

7 A It is like five of them.

8 Q What is the significant in narcotics?

9 A Most of the time you find scales related to drug use
10 or narcotic sales. This is where they would end up
11 weighing either marijuana, cocaine, methamphetamine,
12 heroin. Those are just a few of the drugs they would
13 actually put on a scale and measure it out and then put it
14 in what we would classify as little baggies or they would
15 actually tear off corners of plastic bags and put whatever
16 drug is in that corner bag, tie it off and then sell it.

17 Q I want to show you State's exhibit 19. Is that one
18 of those scales right there in that picture?

19 A Yes, that appears to be one of the scales here in the
20 bag.

21 Q And then is there anything else that is significant
22 to you in that picture that is behind the scale in that
23 box right there, in the green box?

24 A Those are what we would classify as sandwich bags.
25 Typically you would find that type of bag in possession of

1 individuals who are selling or in possession of narcotics.

2 Q So you would classify that as being used, I guess in
3 the drug trade?

4 A Yes, ma'am. Also the other wrapper which is just to
5 the front of the left of that sandwich bag, it looks like
6 there is a cigar pack there. And that is relevant too
7 because in using marijuana they typically go and buy what
8 we classify as blunts or cigars and they would take the
9 tobacco product out and then insert the marijuana in there
10 so that they could smoke that.

11 Q I want to show you State's exhibit 32. Do you
12 recognize that?

13 A Yes. These are individual packaged, plastic
14 envelopes and some plastic baggies with powder substance
15 and bills was collected at the residence of [REDACTED] S.C..
16 Highway 219.

17 Q And you testified you have been in law enforcement
18 for many years. In your experience do those look to be a
19 specific type of drugs, I guess, before y'all send them
20 off to SLED would it appear to be something of a
21 particular substance?

22 A Usually what you find, because so many people are
23 using many different methods of; color or shape or design
24 of these. Typically whenever you see, you would think
25 along the lines of methamphetamine. Phenetol has probably

1 been one of our biggest concerns; cocaine, heroin. So all
2 of these fit and look similar to that profile that I am
3 familiar with in the number of years I have been
4 practicing law enforcement. With that being said, we
5 won't know exactly what it is until it is sent to SLED
6 laboratory for testing.

7 Q It was mentioned previously as well about
8 fingerprints and DNA. What would be your experience in
9 trying to collect that in a case like this?

10 A Typically when ever we go to a house where we have
11 identified that residence as the establishment of the,
12 what I classify as party or suspect or Defendant,
13 typically we won't do any type of fingerprints or DNA.
14 Because what you found is that person has identified
15 himself with that residence, whether it is with his
16 personal possession, whether it is with ID cards; whether
17 it is social security cards; whether it is bills or mail
18 he receives there or vice versa. We look at that as an
19 establishment that that individual has possession and now
20 control and authority on whatever is there at that house.

21 Q And to your knowledge was that present in this case?

22 A Yes.

23 Q And additionally would it be possibly difficult to
24 lift fingerprints from those types of small baggies?

25 A You will find because of the multiple use and the

1 smallness of it, it is very difficult to try to lift or
2 get a good print. It happens all the time on TV but never
3 here in the real world.

4 Q And I want to briefly talk about Iyeshia Sims. She
5 was a codefendant in this case that was originally
6 arrested. I guess, can you give us, I guess an example of
7 when someone, if you have more than one person, I guess,
8 on scene. Is that common to arrest multiple people?

9 A It is not uncommon. Most of the time you will find
10 that when a house has been established as a possible
11 target for either drug use or drug sales, it is very
12 typical to find individuals either going there,
13 socializing; using or buying. So sometimes the element of
14 going there surprises other individuals who are there and
15 typically if they are there we end up finding criminal
16 activity that we end up charging them as well.

17 Q So if someone else were technically in constructive
18 possession of it at that time you would have gotten a
19 warrant?

20 A Yes. Obviously the best scenario is for me to find
21 the drugs for narcotics on an individual. If you find
22 that on them then there is no question that that belongs
23 to them because they are now in control and possession of
24 it. Going back to the house scenario and you have, let's
25 say several individuals there and then you find either on

1 kitchen tables or in private stash areas such as in a cup
2 on a shelf. Most of the time you will find that those
3 stash areas are individualized and an individual lives
4 there. But if you find it laying out in the open of the
5 table then that will allow for possession and control of
6 those individuals there. So that would give us the reason
7 as well as probable cause to take that person who is there
8 in the house into custody.

9 Q In this case you know where the location of the drugs
10 were found, were they in a particular suspect's, you would
11 say in their custody and control?

12 A I would say so because of the --

13 MR. LAUBSHIRE: Objection, Your Honor.

14 THE COURT: Nature of your objection.

15 MR. LAUBSHIRE: Can we approach.

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

19 Q So, Major Dennis, just generally speaking, if you
20 were to find drugs like you said, areas of a bedroom or a
21 cup, would you say that was in constructive possession of
22 that particular suspect?

23 A That's correct.

24 Q I want to touch on a couple of other things that was
25 brought to our attention. Let's go to some of these

1 policies. Body cam policy, okay. Are y'all equipped,
2 were y'all equipped with body cams back in January of
3 2020?

4 A We were, yes. As a matter of fact, I am wearing one
5 showing there.

6 Q I know there was mentioned a policy that y'all have
7 at the Sheriffs Office, is that right?

8 A That's correct.

9 Q And do you know, to the best of your recollection,
10 was your body cam activated that day at the search
11 warrant?

12 A Yes, it was.

13 Q And I guess, do you remember, what is your policy on
14 your retention?

15 A And I --

16 MR. LAUBSHIRE: Your Honor, I am going object. If we
17 can approach.

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

21 THE COURT: Repeat your question, Solicitor.

22 Q Major Dennis, what is the Sheriffs Office retention
23 policy on body cams?

24 A Retention policy falls in four different categories.
25 We have one that is classified as just as, maybe a small

1 encounter that there is no record or anything done. And
2 it is not tagged, no reports done on it. We don't tag it,
3 there are no issues or problems. That body cam will stay
4 on my server for at least 30 days. The next part is, is
5 we have what is classified as where we tag it, meaning
6 when I say tag, we are using an incident case number and
7 we tag it for retention for 30 days. So if we feel like
8 there is going to be a problem we do a report, that body
9 cam video is saved for 30 days and then it purges. If we
10 make a traffic stop or an encounter where a criminal
11 charge is made at Magistrate's Court level, then that body
12 cam is tagged with a case number as well as Magistrate's
13 form which will maintain for 90 days. And then we have
14 General Sessions where if we make a case and we list our
15 tag and case number and then we mark it as Circuit Court,
16 and it is saved for 18 months and then it is purged.

17 Q So it would not be, it would be an unintentional
18 purging, I guess, after 18 months, if it is not
19 downloaded. Is that correct?

20 A That is correct. It is left up to the individual
21 officers, investigators. One of the things that happened
22 in this particular case that we learned about from other
23 cases, COVID interrupted court. So therefore, we were
24 thinking about our body cam video, but we were not
25 thinking about our body cam video. Because Chief Justice

1 Beatty pretty much reorchestrated court where we were not
2 having court. So it kind of slipped up on us knowing
3 about the 18 months and then whenever this case come up
4 for notice, that we were either going to go to trial and
5 start producing information from it, that is when we
6 learned that we had several cases that had purged. It is
7 unintentional oversight not only on our part but also the
8 court system too.

9 Q And, again, this was not the only thing that had been
10 purged, this is not the only case, I guess?

11 A That's correct.

12 Q And then I guess, I wanted to talk to you about
13 another policy that was brought up. Crime scene tape. In
14 your, I guess, experience, multiple years of experience,
15 have you ever put up crime scene tape around a search
16 warrant, execution of a search warrant involving drugs at
17 a house?

18 A I cannot recall an incident where, activating a
19 search warrant that we put crime scene tape up. Most of
20 the time the officer present is the line that we have to
21 deter others to enter where we are at.

22 Q In this particular case, was it a long driveway?

23 A It was. I would say the driveway was maybe one and a
24 half distance, length of this courtroom, from Highway 219
25 to where the trailer sat.

1 Q So do that, I guess, develop with your parameters,
2 setting up a parameter for the search?

3 A Well, it isolated us. On the back side of the
4 property was kind of a wooded area. To the left of us was
5 another house. So we were able to see if anyone was
6 coming to us from the roadway, the house, plus other
7 officers were there in the yard. So they would be able to
8 encounter anyone that had come to the wood line.

9 Q And to your knowledge, do your policies require that
10 you put up crime scene tape at these different crime
11 scenes?

12 A No. The policy actually says you may, if you so
13 choose. There are other types of ways to deter that. I
14 carry around a, when I am in my other vehicle, a spray can
15 of orange paint. And if I spray an orange line and I got
16 people coming. Then I am going to tell them, that is my
17 boundary. You do not cross over that orange line of
18 paint. We use cones, traffic cones to build a boundary so
19 that people will know, don't cross into that or we just
20 put an officer there or a police car and that would help
21 us isolate the area in which we are in control of.

22 Q So you would say it is discriminatory what is done
23 and it is a case by case basis?

24 A That is correct.

25 Q One more question about body cams. When you execute

1 a search warrant are your body cams running the entire
2 time?

3 A Most of the time you will find that whenever we are
4 there at a crime scene and collecting evidence, if we give
5 them one good walk through plus we have got an individual,
6 it is the investigator's discretion to cut that body cam
7 off. But it is also the officer or investigator's
8 discretion to leave it on. And if they cut it back off,
9 there is nothing to deter them to cut it back on if the
10 need arises.

11 Q So if it were to be cut off what, I guess, what could
12 an officer take to help give further information of what
13 happens throughout the search?

14 A Most of the time it is the documentation of what they
15 are writing on the search warrant. The other is the
16 documentation of the camera, cameras, because you can take
17 unlimited pictures basically and document to depict what
18 we see and what we are looking at to show people and what
19 we seize.

20 Q And do we have that in this case?

21 A Yes.

22 Q One other thing about these policies. I believe it
23 was mentioned earlier that we had multiple officers
24 involved. Did everyone write a report, to your knowledge?

25 A No, ma'am.

1 Q And can you explain a little bit about why that would
2 occur?

3 A One of the things that you will see and I don't mind
4 saying myself. I did not generate a report because the
5 information that was placed in our incident report clearly
6 depicted what my role was that day. So if I was going to
7 generate a report I would be saying the same thing that
8 Lieutenant Michael Stribble wrote in the report that I
9 indicated to him or reading and executing the search
10 warrant to Mr. Blackwell.

11 Q And, in fact, is there actually a portion of y'all's
12 policy that talks about who should be writing a report in
13 regards to these cases?

14 A Most of the time what you will find is, if you have
15 an individual that has directly I will go back to the
16 seizure of evidence. If I collect this notebook or packet
17 of papers and then I give it to the Solicitor, then yes, I
18 want to be able to document that not only in a
19 chain-of-evidence form but also a report. It may just be
20 a one-line report. And it could be something just as
21 simple as me walking up and telling Lieutenant Stribble,
22 okay, I took this packet of paper and I handed it to
23 Solicitor Boykin. And then he would ask Solicitor Boykin,
24 what did you do with the paper. I logged it into
25 evidence. So, you know, those things like that can go

1 very well by just one person indicating in a report
2 instead of having multiple enter a report.

3 Q So your policy is that the person who writes the
4 report is the person who does the collection and
5 preservation of those items?

6 A That's correct.

7 Q And it was also mentioned that there were no in-car
8 camera videos in this case. Is that something that you
9 would normally have when you execute a search warrant?

10 A Most of our patrol vehicles, and that is exactly the
11 knowledge that we use. Most of our patrol vehicles are
12 equipped with in-car video because they are frequently out
13 on the road observing traffic, making traffic stops. So
14 typically you will find our marked patrol cars having that
15 type of video in them, also body cameras. Most of the
16 investigators that are in unmarked vehicles, we don't have
17 those in there because we are not interacting directly in
18 a patrol type atmosphere. We are given reports that are
19 generated from our road patrol for investigation. Now, we
20 are more focused of taking our body cam to go to interview
21 witnesses, defendants or victims.

22 Q Okay. So an in-car camera wouldn't have any, I
23 guess, what is going on inside of the house?

24 A No.

25 MS. BOYKIN: I beg the Court's indulgence.

1 THE COURT: Sure.

2 Q And, Major Dennis, one last question. Is there
3 anything in your opinion that would have been on these
4 body cams that would have been helpful in this case?

5 MR. LAUBSHIRE: Objection, Your Honor. The testimony
6 is for experts, he is not an expert. Don't have a video,
7 you can't speculate.

8 THE COURT: Well, based upon his knowledge of the
9 scene, he was there at the scene, he is familiar with the
10 case, I will overrule and allow the question to be
11 answered.

12 A Can you repeat this for me.

13 Q In your opinion, Major Dennis, is there anything that
14 would be on these body cams that would be helpful in this
15 particular case?

16 A I don't think anything more would indicate what we
17 have seen as far as pictures and as well as physical
18 evidence that we collected. I think all of that speaks
19 for itself and what a body cam would have depicted and
20 what we have here today.

21 Q And, again, all that was recovered at the scene, all
22 of that points to one person. Is that correct?

23 A That is correct.

24 Q And who would that be?

25 A That would be Kendrick Blackwell.

1 Q Thank you. Please answer any questions Mr. Laubshire
2 has.

3 THE COURT: Cross-examination.

4 CROSS-EXAMINATION

5 By Mr. Laubshire:

6 Q Lieutenant Dennis, your role at this scene, you
7 characterize it has perimeter security, you are outside
8 most of the time?

9 A Outside most of the time. I did go inside, yes sir.

10 Q All the time the search warrant was taking place, how
11 much time do you think you spent inside the home?

12 A Maybe less than five minutes.

13 Q And the rest of the time you were outside of the
14 home?

15 A Yes, sir. I don't like the smell of marijuana --

16 MR. LAUBSHIRE: Objection, Your Honor.

17 MR. DANIEL: Your Honor, we move to strike that last
18 answer.

19 THE COURT: That last answer is stricken from the
20 record, ladies and gentlemen of the jury. And I instruct
21 to disregard that testimony and not give it any
22 consideration whatsoever.

23 Q Since you were outside most of the time except for
24 five minutes, how were you in a position to give an
25 opinion as to what would be caught on body cameras from

1 seven other officers inside the house actively conducting
2 a search?

3 A I didn't need to look at body cameras to look at the
4 photos that were taken, that were generated by the
5 investigators on the scene. So that gives a second
6 series, if we had the body cam, the digital photos as a
7 second or backup to what we don't have now.

8 Q Why do you have body cameras to begin with, when we
9 can just use cameras. You had cameras all along, what is
10 the purpose of the body camera?

11 A I believe South Carolina Legislature passed that all
12 law enforcement, after a series of incidents across the
13 Nation, that we would be equipped with body worn cameras.
14 So that is the reason why we have those now, on top of
15 digital photography that we still utilize as a secondary
16 means of documenting a crime scene.

17 Q Have you seen the photographs in this case?

18 A I have seen the majority of them, I would have to
19 look at them again to jog my memory, so to speak.

20 MR. LAUBSHIRE: Can I approach the witness, Judge, to
21 give him the photos.

22 THE COURT: Yes.

23 MR. DANIEL: Your Honor, is there a specific photo
24 that Major Dennis needs to be looking for?

25 MR. LAUBSHIRE: All of them.

1 MR. DANIEL: All of them, okay.

2 A Okay, Mr. Laubshire.

3 Q Have you had a chance to review those photos?

4 A Yes, sir.

5 Q From those photos can you tell me which officer found
6 those items?

7 A No, sir.

8 Q Other than yourself, which I think that is you, is
9 that a photo of you outside?

10 A In State's exhibit number 6, that is me looking at
11 your client.

12 Q Is there any other photos in there of any of the
13 other seven or eight officers conducting a search?

14 A I can identify what appears to be Ryan Dickert, from
15 his reflection in the screen door, storm door. But as far
16 as knowing who the person was that collected, I would have
17 to look and see on the search warrant.

18 Q So you can't tell from the photos who is doing what
19 and where they are doing it at, of these seven officers
20 that are there?

21 A Not from these photos, no sir.

22 Q Now, you would have been able to see that from a body
23 camera, wouldn't you?

24 A If those body cams had been activated during the
25 search.

1 Q Was your body camera activated during the search?

2 A I can't answer that because we don't have that. But
3 my body cam, once we arrive on the scene, it was activated
4 up until the point of reading the search warrant and then
5 maybe the walk through. And typically I would cut my body
6 cam off unless something came up that would have me to
7 reactivate it.

8 Q Do you know if anybody else had their body camera on?

9 A I can't answer that as far as individual officers.

10 Q You stated you are the Major at the Sheriffs Office,
11 right?

12 A That's correct.

13 Q And the officer in charge of this scene, we heard
14 from Officer Stribble, this is his case. Is that correct?

15 A That is correct.

16 Q He wrote the report?

17 A Say again?

18 Q He wrote the incident report?

19 A That is correct.

20 Q He secured the search warrant?

21 A That is correct.

22 Q And it is his investigation?

23 A That is correct.

24 Q But you were only assisting?

25 A Assisting or as the direct supervisor, that is true.

1 Q But it wasn't your case?

2 A That is correct.

3 Q When it came to your attention that these video
4 tapes, body cameras has been deleted or destroyed, what
5 steps did you take to try and recover it. Did you call
6 the company to see if it could be recovered?

7 A I would not use the word, deleted or destroyed. We
8 use the word, purge. And, yes, we contacted not only
9 Motorola who has this but the technician that we have at
10 the Sheriffs Office.

11 Q And that was to recover these items?

12 A That is an attempt to recover these items. They were
13 purged from the system completely, unable to be recovered.

14 Q Did you call SLED to see if they had body cameras and
15 had their cameras on?

16 A This was an individualized investigation for Newberry
17 Sheriffs Office. The other agencies involved, they had
18 their own policies and procedures that they follow. No,
19 we did not call to see if they had anything that we could
20 see.

21 Q So there was no attempt by you or Stribble to collect
22 SLED body cameras. So you don't even know if they have
23 it?

24 A I don't even know if they had it. We do not oversee
25 SLED's wearing or operating of theirs, we are responsible

1 for Newberry County Sheriffs Office.

2 Q I was just asking if you called to see if they have?

3 A We are only responsible for our policy and procedure,
4 not another agency's policy and procedure. So therefore
5 if they didn't have body cameras you are not going to
6 generate any type of video.

7 Q Is that a yes or a no to the question. Did you call
8 to see if they had any?

9 A I did not call, if that is what you want me to say.
10 I did not call SLED to see if they had any body camera
11 video.

12 Q Realizing that your video was gone, why didn't you
13 take any steps to see if SLED had any video?

14 A I don't know if I can really answer that, Mr.
15 Laubshire because I tell you, we were probably gut
16 wrenched that we discovered that this had been purged from
17 our system and this was a learning process for us. And it
18 was probably the furthest thing from our mind at the time
19 where we were trying to make our own recovery of what we
20 had as far as evidence in the way of body worn camera
21 evidence.

22 Q You would agree this is a serious case?

23 A I would agree that any case we bring to General
24 Sessions is a serious case.

25 Q And whatever word you want to use, deleted,

1 destroyed, purged; what word you want to use. When you
2 realized that this video was gone, what steps other than
3 checking to see if you can recover yours, what steps do
4 you take to precure any other evidence in this case since
5 you let yours be destroyed?

6 A I think what we have, and I say, we, I think what we
7 have presented by way of incident report, search warrant,
8 pictures, and what I am holding in my hand is great
9 physical evidence to overcome a situation that we got lost
10 in the policy and procedure of, not knowing the purge
11 information. And we did not anticipate and we did not
12 write into our policy for a pandemic to happen and shut
13 the court system down.

14 Q Major, that is a great answer to a question that I
15 didn't ask you. I ask you --

16 A It was the question you asked me.

17 Q What step did you take to get the videos from SLED,
18 did you check with their --

19 MR. DANIEL: Your Honor, objection, this is
20 repetitious.

21 THE COURT: It has been asked and answered. He said
22 he did not contact SLED.

23 Q You were asked about fingerprints in this case by the
24 prosecution?

25 A That's correct.

1 Q Are you a fingerprint technician?

2 A What are you, rephrase the question for me, please.

3 Q Are you a fingerprint technician that can collect
4 fingerprints?

5 A I have collected fingerprints and I have identified
6 fingerprints.

7 Q Are you certified by the Academy to do that?

8 A I am.

9 Q Is your certification current?

10 A I look at fingerprints all the time. I don't think
11 there is a certification that is maintained annually. It
12 is just saying, honed on our skills of looking at prints
13 and collecting prints as well as any other advanced
14 classes that we go to to maintain our certification.

15 Q And you collected prints throughout your career,
16 correct?

17 A 27 plus years.

18 Q It is not really hard to collect prints, dust and
19 lift them up, right?

20 A It is not very hard, it takes effort.

21 Q When you were on the perimeter did anybody come to
22 you and say, Major Dennis, we would like to run some
23 prints on these items that are in the house in the cabinet
24 drawers, things like that. Did anybody do that to you?

25 A No, sir.

1 Q Do you know if anybody else made any attempt?

2 A No, sir.

3 MR. LAUBSHIRE: The Court's indulgence for just one
4 moment, Your Honor.

5 THE COURT: Sure.

6 Q Major, since this isn't your case, you wouldn't have
7 any information about any request that I had made to the
8 Prosecution or the officers in the case about collecting
9 evidence in the case. This wouldn't be something you
10 would be purvey to?

11 A I am not following the question.

12 Q Officer Stribble, Lieutenant Stribble, it is his
13 case, correct?

14 A That's correct.

15 Q So any evidence of turning over or any collection of
16 evidence, he would give to the Solicitor to give to me.
17 You wouldn't have any hand in that process, would you?

18 A It is not a yes or no question because Lieutenant
19 Stribble would be contacted by the Solicitor's office
20 because he is the lead investigator. But because I am the
21 Supervisor, if they had not gotten to Stribble they would
22 go through me to get whatever other information would be
23 needed.

24 Q All right. This event took place on January the 30th
25 of 2020, correct?

1 A That's correct.

2 Q And as Stribble being Supervisor, the first they
3 would contact if they couldn't get Stribble, my request
4 for all the evidence in this case was made on May the
5 11th, 2020, four months later. Why wasn't the videos
6 secured at that point as evidence in this case. You were
7 aware there was a case, you were aware it is a serious
8 case and then you would be aware I made a request for all
9 of the evidence yet you let it get purged, dismissed,
10 destroyed, whatever you want to call it. I don't care.
11 Why wasn't that taken care of in May when I requested it?

12 A I guess the, the flaw of our human nature that we
13 felt like it was always going to be there available and
14 that is something that comes with a price that we have to
15 make. But it is also one that we have corrected.

16 Q You weren't aware of the policy that said the videos
17 would be purged in the description you gave to the jury?

18 A We were but in the same mindset we felt like that it
19 had been a time where we offer access, not only to our
20 officers but as well as the Solicitor's office, that that
21 would have been made available and could have been. As a
22 matter of fact, if you had showed up we probably would
23 have gotten it right then and there. But I can't answer
24 that at this point in time to do the what if's.

25 Q I wasn't asking you what it, I ask you a flat

1 question of why it wasn't preserved when the request was
2 made.

3 A I think I said that.

4 MR. DANIEL: Asked and answered.

5 A It is our mistake that we did not do that.

6 Q And you mentioned something peculiar, you said you
7 paid a price for this. Was someone disciplined for this?

8 A No. What I mean is, we have several cases out there
9 that have come under question because we did not save or
10 we did not go in and -- so do I feel bad that we have, we
11 failed to do that. Yes. So in a sense, yes, we paid the
12 price because of that, not doing what we were supposed to
13 do.

14 Q So by price you mean you just feel bad about it?

15 A Feel bad about it. But we also moved on because,
16 once again, we have digital photography; we have incident
17 reports; we have physical evidence and we have the
18 integrity of those officers that were there to come and
19 testify to what they found.

20 Q There is a lot of officers out there on the scene,
21 wasn't there?

22 A I would say a handful, yes sir.

23 Q And some of them you even testified you weren't
24 responsible for them, didn't you?

25 A That's correct, SLED.

1 Q How are we going to verify their integrity?

2 A That would be left up to the preparation to this case
3 as far as witnesses that would be called or not called.

4 That would be left up to the Solicitor's office.

5 Q So you can't verify their integrity, just yours.

6 MR. LAUBSHIRE: No further questions for this
7 witness, Your Honor.

8 THE COURT: Any redirect?

9 MS. BOYKIN: Briefly, Your Honor.

10 REDIRECT EXAMINATION

11 By Ms. Boykin:

12 Q Briefly, Major Dennis. Again, these body cams, they
13 were unintentionally purged. Is that right?

14 A That is correct.

15 Q Do we have other pieces of evidence that would be
16 beneficial in this case?

17 A Yes. As I said earlier, the Court has been
18 introduced to photographs; the Court has been introduced
19 to physical evidence such as the pills, the powder, the
20 digital scales and anything else that the Solicitor's
21 office has brought attention to the Court.

22 Q And let's see, State's exhibit 34, the Defendant's
23 ID. Do you think that that is beneficial as well?

24 A I do, yes.

25 Q And I believe the electricity bill was also entered

1 into evidence. Would that be another beneficial item?

2 A It will be.

3 MR. LAUBSHIRE: Your Honor, this is not proper. I
4 didn't mention anything about a light bill.

5 THE COURT: What is that in response to, Solicitor.

6 MS. BOYKIN: Judge, I was just asking him different
7 items that could be brought out without using the body
8 cam.

9 THE COURT: I will allow this and we will go onto
10 something else.

11 MS. BOYKIN: Yes, Your Honor.

12 Q Again, the body cams would be a duplicate of the
13 pictures that we have seen in evidence. Is that correct?

14 A That is correct.

15 Q Thank you. That is all I have.

16 THE COURT: Any recross?

17 MR. LAUBSHIRE: Briefly, Your Honor.

18 RECROSS-EXAMINATION

19 By Mr. Laubshire:

20 Q Major, have you ever been to the movies?

21 A I couldn't?

22 Q Have you ever been to the movies?

23 A Not recently.

24 Q Ever watch at home on TV?

25 A Netflix.

1 Q Netflix. Do you get a prescription of Netflix?

2 A I don't because it cost too much. My kids do. So I
3 get the benefit.

4 Q And you watch movies on there, right?

5 A Yes, sir.

6 Q You don't just look at pictures, do you?

7 A Again?

8 Q You just don't look at pictures?

9 A I see what you are saying. No.

10 Q You never went to a movie and got a video or
11 something and said let me just see the picture book. I
12 want to see the movie, right? I want to see everything, I
13 want to see all the action. I don't want to see the still
14 shots, I want to see the movie, right?

15 A That's true.

16 Q That is very, very different between a video and a
17 photo, isn't that true?

18 A They are.

19 Q Okay. And the reason we have these is to protect the
20 integrity of other officers, correct? That is the basis
21 for having the body cam to begin with?

22 A That is correct.

23 Q Because as you have testified to earlier, there have
24 been a series of events that have come up, across the
25 Country, even some in this State that we have seen,

1 regrettably. If we didn't have a body camera or someone
2 else's camera, police misconduct would have went
3 unchecked. Isn't that true?

4 A That is correct.

5 MR. DANIEL: Your Honor, the relevance to that
6 statement is argumentative.

7 THE COURT: I think it goes to the fact that you have
8 no body videos.

9 MR. LAUBSHIRE: No further questions, Your Honor.

10 THE COURT: Major Dennis, you can step down, sir.
11 Ladies and gentlemen, we are going to take a short
12 afternoon break and go down to the jury room. We will get
13 you back up shortly.

14 (Whereupon, the jury was excused from open court for
15 a break.)

16 THE COURT: We will be in recess.

17 (Whereupon, a short break was taken.)

18 THE COURT: Let's bring the jury in, please.

19 (Whereupon, the jury came into open court at
20 approximately 4:33 p.m.)

21 THE COURT: Let the record reflect the jury is back
22 in. Ladies and gentlemen, we are going to work a while
23 longer. Is everybody good on time. No issues. Okay,
24 Solicitor.

25 MR. DANIEL: Your Honor, the State calls Iyeshia

1 Sims.

2 Iyeshia Sims, being

3 first duly sworn, testified as follows:

4 DIRECT EXAMINATION

5 By Mr. Daniel:

6 Q Iyeshia Sims, thank you for your patience. I know
7 you have been here for a while. How old are you, Ma'am.

8 A I am 31.

9 Q And where do you live?

10 A On Drayton Street.

11 Q And that is here in the City of Newberry, correct?

12 A Yes, sir.

13 Q And were you born and raised in Newberry?

14 A Yes, sir.

15 Q Okay. Who is Kendrick Blackwell to you?

16 A My cousin.

17 Q First cousins?

18 A Second cousins.

19 Q And are y'all close?

20 A We were.

21 Q You say you were, all right. I want to go back over
22 two years ago now, January 30th of 2020. Do you remember
23 that day?

24 A Yes, sir.

25 Q And did you see Kendrick, your cousin, that day?

- 1 A Yes, sir.
- 2 Q And where and how did you see him?
- 3 A I went to his house.
- 4 Q And where was his house?
- 5 A The house on 219.
- 6 Q Just past Newberry High School?
- 7 A Uh-huh.
- 8 Q Okay. Look at the TV on State's number 5. Do you
- 9 recognize that?
- 10 A Yes, sir.
- 11 Q And what is that?
- 12 A Kendrick's house.
- 13 Q That is Kendrick Blackwell, your cousin's, house.
- 14 Correct?
- 15 A Yes, sir.
- 16 Q Was the only one living there at that time, to your
- 17 knowledge?
- 18 A Yes, sir.
- 19 Q And how, prior to that date, January 30th of 2020,
- 20 how many times had you gone over there?
- 21 A I always stop there on the way to work.
- 22 Q So you would only go over there on your way to work,
- 23 stop by there before you went to work?
- 24 A Yes, sir.
- 25 Q Where do you work or where did you work back then?

1 A At Samsung.

2 Q Okay. And Samsung is right near this house, correct?

3 A Yes.

4 Q What time was your shift at Samsung?

5 A 2:45, 3:00 o'clock.

6 Q So you would leave your house on Drayton Street and
7 leave a little bit early so you could stop by and see your
8 cousin, Kendrick?

9 A Yes, sir.

10 Q Because it is close by to Samsung. And approximately
11 how many times have you done that prior to January 30th.

12 A A lot.

13 Q And would Kendrick, and that is Kendrick's house, he
14 would be there every time?

15 A Yes.

16 Q And did anyone else live with him?

17 A Not to my knowledge.

18 Q Was he renting that mobile home?

19 A I am not sure.

20 Q Did Kendrick ever tell you that anybody else lived
21 there with him?

22 A No, sir.

23 Q Okay. And what would you do to kind of kill some
24 time before you had to go to Samsung, what would you
25 generally do with your cousin?

1 A I would just go over there to chitchat with him.

2 Q Watch TV, things like that?

3 A Yes, sir.

4 Q Okay. And on, do you remember the police coming to
5 Kendrick's house that day, on January the 30th?

6 A Yes, sir.

7 Q Would that have been right before you had to go to
8 work at 2:45?

9 A Yes, sir.

10 Q State's number 6, Mr. Bentley. Look at that, Ms.
11 Sims, if you could. Tell us what we see there?

12 A Me.

13 Q Speak up, please.

14 A Me.

15 Q Okay. And is that just after the Sheriffs Office
16 arrived and announced their presence?

17 A Yes, sir.

18 Q Okay. And did you know why the police had come there
19 that day?

20 A No, sir.

21 Q Let me ask you this. While you were there, just
22 talking about January 30th of 2020, how long had you been
23 there before the police arrived?

24 A Maybe an hour or two.

25 Q So you approximately gotten there around, what, would

1 it be fair to say 12:30?

2 A Yes, sir.

3 Q About 12:30 is when you arrived there that day?

4 A Yes, sir.

5 Q And your time there, for about two hours prior to the

6 police arriving, is that fair to say?

7 A Yes, sir.

8 Q At that time period did you see any type of drug

9 related evidence?

10 A No, sir.

11 Q Okay. You didn't see any, did you?

12 A No, sir.

13 Q Did you look inside any coffee cups?

14 A No, sir.

15 Q Did you go into Kendrick's bedroom and look at any

16 gym bags?

17 A No, sir.

18 Q Okay. Did you see any drugs sitting out in the open

19 on a table?

20 A No, sir.

21 Q So if there were any drugs would it be fair to say

22 they were in concealed areas?

23 A Yes, sir.

24 Q Okay. Were those your drugs?

25 A No, sir.

1 Q Are you sure about that?

2 A Positive.

3 Q And you are aware of your oath? You are aware of
4 your oath to tell the truth, correct?

5 A Yes, sir.

6 Q And you didn't see any?

7 A No, sir.

8 Q And had you ever experienced anything like this with
9 law enforcement?

10 A No, sir.

11 Q So you have never been a part of law enforcement
12 asking you about drug related evidence?

13 A No, sir.

14 Q So this was a new experience for you?

15 A Yes, sir.

16 Q Okay. And you just happened to be there?

17 A Yes, sir.

18 Q Okay. And they arrested you that day, didn't they?

19 A Yes, sir.

20 Q And did they charge you with a drug related crime?

21 A Yes, sir.

22 Q And you got out of jail pretty quickly, right?

23 A The next day, yes sir.

24 Q And has the Solicitor's office, my office, taking any
25 action on this case, to your knowledge?

1 A Not that I know of.

2 Q Other than asking you to testify in this case has the
3 Solicitor's office brought you into court to answer for
4 these charges?

5 A No, sir.

6 Q Okay. Do you have a lawyer on these charges?

7 A I have a Public Defender.

8 Q Okay. Have you met with that lawyer about this case?

9 A A couple of days after I got out.

10 Q Okay. But this is your first time actually coming to
11 court related to this case at all?

12 A My first appearance but it was just roll call.

13 Q And last month we had scheduled this case for trial.
14 Is that correct?

15 A Yes, sir.

16 Q And you were subpoenaed to testify last month
17 originally. Is that correct?

18 A Yes, sir.

19 Q And you met with me, is that right?

20 A Yes, sir.

21 Q And did I make any specific promises to you or offer
22 any specific benefits to you in exchange for your
23 testimony today?

24 A No, sir.

25 Q Did I promise to dismiss that charge?

1 A No, sir.

2 Q Okay. So I, myself or Solicitor Boykin or anybody
3 from the Sheriffs Office, did they promise anything in
4 exchange for your testimony?

5 A No, sir.

6 Q Okay. And are you doing this to curry favor with the
7 prosecution?

8 A No, sir.

9 Q Okay. Are you testifying because this is the actual
10 truth?

11 A Yes, sir.

12 Q And we are not promising you anything?

13 A No, sir.

14 Q Okay. And Kendrick is your cousin?

15 A Yes, sir.

16 Q And y'all are close?

17 A We were, yes sir.

18 Q Why are you not close now?

19 A Because I wouldn't be in this situation if it wasn't
20 for him.

21 Q Thank you, Ma'am.

22 THE COURT: Any cross-examination, Mr. Laubshire?

23 MR. LAUBSHIRE: Yes, sir.

24 CROSS-EXAMINATION

25 By Mr. Laubshire:

1 Q Good afternoon, Ms. Sims?

2 A Hello.

3 Q Are your charges still pending?

4 A Yes, sir.

5 Q And the Newberry County Sheriffs Office charged you?

6 A Yes, sir.

7 Q Have you spoke to your lawyer about your appearance
8 here today, does he know you are coming to court today?

9 A No, sir.

10 Q Was he present with you when you met with the
11 Solicitor?

12 A No, sir.

13 Q Do you know if your lawyer ever spoke to the
14 Solicitor about your case?

15 A No, sir.

16 Q As far as you know your charges are still pending?

17 A Yes, I lost my job because of this.

18 Q So it would benefit for you today to present
19 testimony against your cousin and see if we can get your
20 charges dismissed. Isn't that correct?

21 A Yes, sir.

22 Q So really all the testimony you have today is really
23 to benefit you and your case that is pending?

24 A Yes, sir.

25 Q No further questions.

1 THE COURT: Any redirect?

2 MR. DANIEL: No, Your Honor.

3 THE COURT: You may step down. Any objection for Ms.
4 Sims being excused from the Court House?

5 MR. DANIEL: No objection, Your Honor.

6 MR. LAUBSHIRE: None from the Defense, Your Honor.

7 THE COURT: You are free to go or you are more than
8 welcome to remain with us. Your next witness, Solicitor.

9 MS. BOYKIN: Your honor, the State would call Shana
10 Sorrells.

11 Shana Sorrells, being
12 first duly sworn, testified as follows:

13 DIRECT EXAMINATION

14 By Ms. Boykin:

15 Q Shana, thank you for being here today. Shana, where
16 do you work?

17 A The South Carolina Law enforcement Division more
18 commonly known as SLED.

19 Q And what are your duties there?

20 A I am a forensic chemist with the drug analysis
21 department. And I analyze any biological or chemical
22 sample that is brought into the lab. And I analyze it for
23 the presence or absence of potential substances.

24 Q So are you looking for narcotics, I guess, when you
25 test any substance?

1 A Yes.

2 Q How long have you worked there?

3 A I have been there for almost 16 years, 16 years next
4 month. I had worked in the toxicology department but the
5 last eight years I have been in the drug analysis
6 department.

7 Q So you are specifically in the drug analysis
8 department now?

9 A That is correct, yes.

10 Q And what is your educational background?

11 A I have a Bachelor's Degree in Chemistry from the
12 University of South Carolina. And I also have a Master's
13 Degree from the University of South Carolina.

14 Q And do you take any sort of classes or ongoing
15 education that, to recertify as a chemist?

16 A Not really to recertify as a chemist. We do, we
17 attend multiple conventions just to get up-to-date on the
18 new drugs that are out there, the new drugs that are
19 coming out on the market. We also, when I switched from
20 the toxicology lab to the drug analysis lab I had to work
21 under a Senior Chemist and do an extensive training
22 program under him and then have a pretty much a Mock case
23 that I had to work and complete before I was allowed to
24 work by myself.

25 Q And have you, about how many cases you think you have

1 analyzed, for being there for eight years?

2 A I have about 1,200 a year. So for eight years, that
3 would be about 400 cases, excuse me, 9,600 cases.

4 Q Correct. And have you testified in court before?

5 A Yes, I have.

6 Q And how many times?

7 A 44 times.

8 Q In South Carolina?

9 A In South Carolina.

10 Q And have you testified as an expert in those cases?

11 A Yes, I have.

12 Q And what were you qualified as an expert in?

13 A I have been qualified as an expert in chemistry,
14 biology, pharmacology and drug analysis.

15 Q So you have been specifically, been qualified as a
16 drug analysis expert in South Carolina before?

17 A Yes, I have.

18 MS. BOYKIN: Your Honor, at this time we would offer
19 Shana Sorrells as an expert in drug analysis.

20 THE COURT: Does the Defense have any examination
21 questions concerning qualification?

22 MR. LAUBSHIRE: No examination questions, no
23 objection, Your Honor.

24 THE COURT: Okay. Without objection then, is it
25 Sorrells, is that how you pronounce your last name or

1 Sorrells?

2 MS. SORRELLS: Sorrells.

3 THE COURT: Okay, Agent Sorrells is found by the
4 court to be an expert in the area of drug analysis. You
5 may proceed.

6 MS. BOYKIN: Thank you, Your Honor. Sorry about
7 that, I mispronounced your last name.

8 Q Okay. Shana, did you happen to become involved in
9 the case of State versus Kendrick Blackwell?

10 A Yes, I did.

11 Q Can you tell me, I guess, the lab number that you
12 have associated with this particular case?

13 A The lab number that, the evidence that was submitted,
14 was assigned was L20-08669.

15 Q And tell me a little bit about the process of when
16 law enforcement brings a substance to SLED, what happens
17 before it gets to you.

18 A Before it gets to me it is brought in, I am pretty
19 sure at this time evidence was brought in pre-logged by
20 the submitting officer and then it is placed in a locker.
21 At some point, I don't know the complete process because I
22 do not work in our evidence control department. But they
23 receive the evidence out of the locker and that is where
24 they assign a lab number. In this case that would be that
25 L20 number that I just mentioned. At that point they

1 secure into a locked location that only they have access
2 to until I send down a message to them saying I am ready
3 to pick up the evidence. I go down to them, they scan it
4 into their custody and then they scan it to me. At that
5 point it is my evidence and I take it to my lab where it
6 is stored in a locked vault until I am able to work the
7 case and it stays in my custody until I return it.

8 Q I believe it is sitting up there with you, the actual
9 drugs. I want to show you State's Exhibit 32. Do you
10 recognize that?

11 A Yes. This is the package that I stored after I was
12 completed with the case. It has my initials on every
13 single piece of evidence.

14 Q So that is the drugs that you received in this
15 particular case? Is that correct?

16 A Yes, it is.

17 Q And then, at SLED is there an internal
18 chain-of-custody that y'all keep to keep track of where
19 the drugs have been and where they are going?

20 A Yes, there is. We keep an electronic chain.
21 Everybody has a bar code, that bar code has to be scanned
22 before it is passed from person to person.

23 Q And that is through the ordinary course of business
24 at SLED?

25 A That is for every case, every piece of evidence.

1 That is correct.

2 Q Do you have one up there with you that you can review
3 with me?

4 A Yes, I do.

5 Q So looking at the specific drugs in this case, can
6 you tell me where the drugs, how they were brought to
7 SLED?

8 A Our electronic chain-of-custody said that Michael
9 Stribble of the Newberry County Sheriffs Office brought
10 them to SLED and placed them in the evidence submission
11 lockers.

12 Q And is that where, as you mentioned earlier, the lab
13 number would have been created after it was taken out of
14 that locker, I guess?

15 A After it was taken out of that locker it was, it
16 appears it was taken out by Arthurlyn Sanders. At that
17 time once Arthurlyn took custody of it that is when she
18 assigned it a lab number. Once it had a lab number she
19 placed it back into their locked evidence room until I
20 called down to say I need to get the evidence.

21 Q And when you called them saying you need the evidence
22 who took possession of the drugs next?

23 A My request went to our technician, Vera Martinez.
24 She was the one that pulled the evidence for me and handed
25 them to me person to person.

1 Q And what date did you become personally, come into
2 custody of these narcotics?

3 A 9/21/20.

4 Q And so at that point it gets in your possession, what
5 do you do with them on that date?

6 A On that date I really just, at that point, this is
7 not the only case I pick up. I pick up 50 at one time.
8 So once I pick up this case I take it upstairs to our
9 locked drug vault, is what we call it. Again, it is a
10 scan card access, only the people in the drug lab have
11 access to it along with our Captain, Major. It is stored
12 there in that locked vault until the day I take it out and
13 actually prep it and work the case.

14 Q And do you, can you tell what date you tested these
15 substances?

16 A Before we open any case we write the date that we cut
17 into the bag. And the date on this says 10/13/20.

18 Q 10/13/20. Okay. Before you cut into the bag, we
19 have heard testimony about a Best Kit. Can you explain
20 what that is?

21 A A Best Kit stands for Best Evidence Sampling
22 Technique or Test. What the Best Kit is this blue bag
23 right here. It is tamper evidence, not tamper proof. You
24 can cut into this bag, that is how we get into it. But if
25 you see all the circles around the edges, if that is cut

1 under seal those do not line up. And you will obviously
2 see the reseal on that. So this is what is considered a
3 Best Kit when the evidence is brought to SLED.

4 Q So on that date you opened the bag. Were you able to
5 determine if the bag had been tampered with, with State's
6 Exhibit 32?

7 A At the time it was not tampered with. If it had been
8 tampered with we would have made a note on it and it would
9 have shown up on my report.

10 Q So it came into your custody as it was, just had not
11 been opened from being previously sealed?

12 A Correct.

13 Q Before I go into the substances. Are there specific
14 test you do to determine what the substance is?

15 A With every sample that comes in, every piece of
16 evidence, the first thing we do when we cut into it is we
17 take all of the outer packaging off of it and we weigh it,
18 before any sampling is done, before any evidence or any of
19 the sample is taken for testing it is weighed. After that
20 we do a color test or a spot reagent in which we can get
21 an idea of what this could be. Different colors give you
22 a different idea. If it goes orange in our acid test,
23 that is indicative of, it could be methamphetamine. If it
24 is a pale orange that is phenetol. If it goes purple it
25 is heroin. If it goes kind of a peach color it falls into

1 your cocaine base. But every sample undergoes that spot
2 test. It just gives us an idea, it does not give a
3 specific answer. Once we have an idea of what it could be
4 we take a small sample, depending on that color test,
5 determine the sample size and then it is run on the Gas
6 Chromatograph/Mass Spectrometer to get a definitive answer
7 based off of the fingerprint which is the mass spectrum
8 and the retention time.

9 Q So you mentioned that you weigh the substances first.
10 Is that correct?

11 A That is correct.

12 Q And your scales, do you calibrate those regularly?

13 A They are calibrated. We go by a set of standard
14 weight from the balance company. It is a chemical balance
15 company. And they certify our weights yearly and, again,
16 we have to test our balances once a week.

17 Q And that is to ensure the accuracy of the weight is
18 actually telling you what it is?

19 A That is correct, yes.

20 Q And then do you send them off yearly to also then be
21 tested further?

22 A Right. The standard weight gets sent off yearly.

23 Q And I guess, State's 32, is that in the same
24 condition as when you sent it back off after you finished
25 the testing?

1 A Yes, it is.

2 Q And can you tell me who the internal chain, who you
3 gave the drugs to after you were finished testing them?

4 A When I was finished with the test and the case, I
5 return it back to our evidence control technician, to
6 Arthurlyn Sanders.

7 Q And when you test these different substances, you
8 come up with your own, what they test positive for and the
9 weight of those?

10 A Yes, I do.

11 Q And did you happen to generate a report in specific
12 to this case?

13 A Yes, I did.

14 Q I want to show you State's exhibit number 3. Do you
15 recognize that?

16 A Yes, this is a copy of my report.

17 Q Okay. And can you see that it has the exact same
18 SLED lab numbers and everything on there as well?

19 A Yes, it does.

20 Q And what was prepared by you at SLED in response to
21 the drugs in this case. Is that correct?

22 A Yes, it was.

23 MS. BOYKIN: Your Honor, at this time we would offer
24 to move State's Exhibit number 3 for admission into
25 evidence.

1 THE COURT: What says the Defense?

2 MR. LAUBSHIRE: No objection.

3 THE COURT: Without objection number 3 into evidence
4 for the State.

5 (Whereupon, State's Exhibit 3 was admitted into
6 evidence.)

7 Q And, Shana, State's Exhibit number 3 is essentially
8 State's Exhibit number 32. That is the physical evidence,
9 number 32, and your report 3, does that contain everything
10 that is found in State's Exhibit 32.

11 A Yes, it is.

12 MS. BOYKIN: Judge, I don't know the best way to
13 handle this but there are multiple bags we might need to
14 open, if we can have permission to do that.

15 THE COURT: Yes, sure. However she needs to do it to
16 finish out her testimony.

17 Q Shana, if you would, we have some gloves up there for
18 you. And what I am going to do, I just want to go through
19 your report line by line. Let's start with item 1.1. If
20 you could pull the physical evidence. I believe item 1.1
21 contained three separate items.

22 A So this was item 1.1 which was a small heat sealed
23 bag. We don't really do any analysis of this because the
24 evidence was separately inside of here. Inside this heat
25 sealed bag what we sub-itemized as 1.1.1. You can't see

1 it from where you are sitting but there is a plastic bag
2 inside here with a whitish powdered substance. Would you
3 like for me to read?

4 Q Yes. I guess, in each of these did you reach a
5 conclusion in your expert opinion of what these substances
6 would be?

7 A Yes, I did.

8 Q So 1.1.1, could you please tell us what that
9 substance tested positive for?

10 A This was found to be methamphetamine.

11 Q Can you tell me the weight of that item?

12 A The item weighed 3.59 grams.

13 Q And just for the, putting up a calculator on the
14 screen just for the weights. Item 1.1.2. Please tell me
15 what that substance and weight was?

16 A Item 1.1.2 was a plastic bag containing a pink powder
17 substance. It was also found to be methamphetamine and it
18 weighed 0.42 grams.

19 Q And 1.1.3, if you could please tell me the substance
20 and the weight for that as well?

21 A Item 1.1.3 was a plastic bag and it contained partial
22 multi-colored tablets. These tablets were tested and it
23 was found to be 3, 4 methylenedioxy-N-benzylcathinone. We
24 call it BMDP for short. And methamphetamine and it
25 weighed 0.69 grams.

1 Q What is BMDP?

2 A BMDP is what we call a substituted cathinone, more
3 commonly it is known as bath salt.

4 Q So this particular item was a, I guess a pill made
5 out of bath salts and methamphetamine. Is that correct?

6 A That is correct.

7 Q Item 1.2?

8 A The weight is 0.69 grams.

9 THE COURT: And what was the substance of the 0.69
10 grams.

11 A That was the BMDP and the methamphetamine. Item 1.2
12 was another one of those heat sealed bags. And in it
13 containing a green powder substance. And it was also
14 found to be that BMDP and methamphetamine.

15 Q What was the weight?

16 A The weight was 2.77 grams.

17 Q So, again, this is pressed pills, multiple pills with
18 a mixture of methamphetamine and bath salts?

19 A This was actually not in pill form. This was just
20 powder.

21 Q Just powder. Okay. Item 1.3?

22 A Item 1.3, again, was another little heat sealed bag.
23 And inside it we have, inside 1.3 was a smaller sandwiched
24 style bag. It was sub-itemized as 1.3.1. And inside
25 1.3.1 were 37 multi-colored triangular tablets and partial

1 tablets in it. These were found to be methamphetamine at
2 15.60 grams.

3 Q So that was methamphetamine with no other mixture?

4 A No mixture, just methamphetamine.

5 Q And what was item 1.3.1.2?

6 A Item 1.3.1.2 was two multi-colored tablets. We
7 separate them out by shape. So that is why the triangular
8 tablets got separated from these. These look like a
9 mushroom. And they are also found to be methamphetamine
10 at 0.78 grams.

11 Q And item 1.3.1.3. Can you tell me if you reached any
12 results for that?

13 A At this point, item 1.3.1.3 was another multi-colored
14 tablet. We did a spot test on this one, an indicative
15 test. It had the same color reaction as the other
16 tablets, that it was in the case list. And because of
17 that no confirmatory testing was done on this. So I
18 cannot tell you exactly what is in this. But we
19 determined that based off of the amount that we had, we
20 had reached our highest threshold in the case. And
21 analyzing this would not offer any more significant
22 evidence in the case. So this was not analyzed.

23 Q So that would be out of our equation then. So we
24 move on to, but again, consistent with the rest of the
25 items to be tested?

1 A It was indicatively consistent, the spot test was the
2 same as the previous items in the case.

3 Q But you had already reached a weight that you didn't
4 have to, at that point, do further testing?

5 A That is correct.

6 Q So let's go to item 1.3.2?

7 A 1.3.2, again, was one of those sandwich style bags.
8 And inside that bag was more of the little tablets, the
9 little multi-colored tablets. These were analyzed and
10 they were found to have Eutylone or bk-EBDB which is
11 another type of bath salt and methamphetamine in these
12 tablets with a weight of 1.60 grams.

13 Q And again, these were a different mixture of bath
14 salt and methamphetamine?

15 A That is correct.

16 Q These pills that you are seeing her, are they, do you
17 see these commonly, this mixture. Can you tell anything
18 about these pills in your expert opinion?

19 A No, these are, it is becoming more and more common.
20 Yes, these are common. Mixture of the bath salt and the
21 shapes and colors of the tablets.

22 Q Can you tell if they are, made pharmaceutically?

23 A These are not pharmaceutically grade tablets. These
24 are, we call them clandestine.

25 Q All right. 1.3.2.2?

1 A 1.3.2.2 was just various partial multi-colored
2 tablets. None of them were complete so we didn't, we just
3 grouped them all together. And they were found to have
4 methamphetamine with a net weight of 3.06 grams.

5 Q And, again, no combination in this particular
6 substance, just methamphetamine?

7 A That is correct.

8 Q What schedule is methamphetamine?

9 A Methamphetamine is a Schedule II drug.

10 Q And are bath salts?

11 A Bath salts are a Schedule I drug.

12 Q What is the difference?

13 A Schedule I versus Schedule II. Schedule II has been
14 shown to be the majority of those. In fact, all of those
15 have some medical use. The biggest difference between
16 Schedule I and Schedule II is there is some medical use.
17 At some point in time these drugs can be used in a medical
18 setting for health benefits. They are still highly
19 addictive which is why they are classified so high.
20 Schedule I is highly addictive but has no medical use on
21 record.

22 Q 1.4?

23 A 1.4 was just another one of those little heat sealed
24 bag. And inside that we have, this is 1.4.1 and it is a
25 plastic bag containing a white powder substance. When

1 this was analyzed there was no controlled substance in
2 this.

3 Q So in your expert opinion, what does that mean?

4 A A lot of times we see those with larger tablet cases
5 as a cutting agent, is what sometimes can be used -- I
6 don't know for sure because I am not really sure what this
7 is. But a lot of times we see cutting agents with it
8 because cutting agents can be used to hold the pills
9 together or hold the tablets together when they are
10 pressed, in the pill press.

11 Q So another substance that you can put with the
12 illegal narcotics, put into it to make a homemade pill?

13 A The majority of the time that is what they are.

14 Q Okay.

15 A I can not tell you for certain because I didn't put
16 it on my report.

17 Q Okay. Item 1.4.2.

18 A Again, item 1.4.2 which is various multi-colored
19 tablets mixed with some powder substance. This item also,
20 based off the weight threshold of methamphetamine and bath
21 salts. Analyzing this would contribute nothing more to
22 the case. So this was noted that it provided the same
23 spot test as all the other tablets and no analysis was
24 done on this.

25 Q What was the weight of that?

1 A The weight of that was 2.06 grams. That had nothing
2 to do with our weight threshold limit.

3 Q Okay. Because we have reached that threshold we did
4 not do any testing to, even though it was consistent with,
5 we cannot add that to our grand tally, I guess?

6 A That is correct.

7 Q And I believe that was all the evidence in that
8 State's 32. Do you know the total weight that you come up
9 with of methamphetamine?

10 A Not off the top of my head.

11 Q If you wouldn't mind looking at the, we have been
12 adding up here on the calculator.

13 A 28.51 grams.

14 Q 28.51 grams. So obviously, is that over 28 grams?

15 A That is over 28 grams, yes.

16 Q So let me ask you about in your report, which the
17 jury will have access to. When you look at these weights,
18 for example, item 1.3.2.2, that weight is 3.06 +/- .01
19 grams. What does that mean when you are looking at your
20 +/- .01.

21 A That +/- .01 grams is what we call a confidence
22 interval. That has, that is that on any given day, based
23 off of if it is raining outside or static in the air, our
24 balance could possibly shift .01 grams. Could either go
25 .01 grams higher or .01 grams lower. So in this case it

1 could have been, the day I weighed it it was 3.06 grams.
2 If I opened it up today and weighed it it could read
3 either 3.05 or 3.07. Just depending on, most of the time
4 it depends on the static in the air and the humidity. But
5 it can vary .01 grams.

6 Q And if you wouldn't mind, could you look at your
7 report and I guess how many substances or how many
8 specific broken down substances you have tested positive
9 for methamphetamine so we can try to come up with that,
10 the range between the $-.01$ and $+.01$.

11 A Eight items were tested.

12 Q Okay. So if we have eight items and we have a
13 confidence level, $\pm .01$, would that be $.08$. Is that
14 correct?

15 A That is correct.

16 Q So, Walter, if you don't mind. 28.51 minus $.08$,
17 would be 28.43 grams. Does that sound correct?

18 A That is correct.

19 Q Okay. So in your expert opinion would you say that
20 the weight of the methamphetamine that you tested could
21 not be below 28.43 ?

22 A That is correct.

23 Q So the range would be, I guess if we were to add $.08$,
24 so 28.51 plus $.08$ would be 28.59 . Is that correct?

25 A That is correct.

1 Q Just for the jury's sake, the range that we are
2 looking at for weight is 28.43 and 28.59. Is that
3 correct?

4 A That is correct.

5 Q In your expert opinion the weight of the
6 methamphetamine that you tested is over 28 grams?

7 A It is.

8 Q Without a doubt?

9 A That is correct, without a doubt.

10 Q And also in your expert opinion, all of the items
11 that you tested that did have a controlled substance, did
12 test positive for methamphetamine?

13 A Yes, they did.

14 MS. BOYKIN: I beg the Court's indulgence.

15 THE COURT: Sure.

16 Q Going to the weight, I believe you testified to this
17 but I just wanted to make sure. The weight of these
18 substances, is that with a bag. We talked about the bags
19 they are in, or is that the pure substance?

20 A That is the pure substance. Everything is weighed
21 outside of the bag.

22 Q Okay. So there is no, the weight is not in
23 contradiction about the substance?

24 A Right. It is the substance only, that is correct.

25 Q And just for, I guess, our knowledge.

1 Methamphetamine, is that considered a stimulant?

2 A It is, yes.

3 Q What about bath salts?

4 A Bath salts are also classified as a stimulant.

5 Q Thank you. Please answer any questions Mr. Laubshire
6 has.

7 THE COURT: Cross-examination.

8 MR. LAUBSHIRE: Yes, Your Honor.

9 CROSS-EXAMINATION

10 By Mr. Laubshire:

11 Q What would you like me to call you, officer or?

12 A Shana is fine.

13 Q Shana, you say?

14 THE COURT: Speak up, Mr. Laubshire.

15 MR. LAUBSHIRE: Yes, Your Honor.

16 Q Shana, were you at the scene the day these drugs were
17 collected?

18 A No, I was not.

19 Q Were you present when they were packaged up by
20 Officer Stribble?

21 A No, I was not.

22 Q You wouldn't have any information of any
23 irregularities or problems that took place before they
24 were bagged, how they were collected or when they were put
25 in that Best bag, would you?

1 A No, I would not.

2 Q And you made this report, and on your report it
3 indicates that Stribble is the one sent it to you for
4 testing. Is that correct?

5 A That is correct.

6 Q And under your analysis it has an incident date of
7 1/30/2020, correct?

8 A That is correct.

9 Q And there is two names attached to this report?

10 A Yes.

11 Q Those names were given to you by Investigator
12 Stribble, correct?

13 A That is what is pre-logged into our system. So when
14 I get the evidence, when our evidence technician gets the
15 evidence that is already in the system attached to this
16 evidence.

17 Q You don't have any information other than what
18 Stribble told you or the system told you about whose drugs
19 these are?

20 A That is correct.

21 Q So you don't know if these names are correct or
22 incorrect?

23 A That is also correct. I have no idea.

24 Q Your analysis purposes, that doesn't matter, does it?

25 A It does not matter.

1 Q So other than your analysis, the only information you
2 have about this case came from Investigator Stribble?

3 A That is correct.

4 Q Under your report, a few spots you wrote that you
5 tested one pill of many. Does that mean you didn't test
6 any other pills that were in the package, just one?

7 A That is correct, just the one.

8 Q And weighed all pills?

9 A Yes.

10 Q Is it possible that some of the pills in the bag
11 wouldn't have tested positive at all?

12 A It good be possible. The majority of the time it is
13 not. We have had that happen before though, yes.

14 Q You did weigh all the pills afterwards and put that
15 weight in the report?

16 A The weight is recorded before analysis is done. We
17 do not have the manpower, the time or the resources to
18 analyze every tablet in a case. So if the tablets are the
19 same, like shape and size, same markings, they are
20 considered the same.

21 Q And there was 37 pills in one package. That was
22 1.3.1.1?

23 A That is correct, yes.

24 Q And how much would estimate that one pill weighed?

25 A We would say on average that most of these

1 clandestine tablets weigh between .3 and .4 grams.

2 Q And you can only speak to the one you tested, isn't
3 that correct?

4 A The one I tested contained methamphetamine, that is
5 correct.

6 Q But the remainder, you can't say anything about the
7 remaining pills?

8 A The only thing we can say is that they have the same
9 markings found in the same bag and they were the same
10 color and they were the same shape and size.

11 Q And you have no idea of how they were packaged or if
12 they were all found together or in separate locations.
13 They were just in the bag you received?

14 A They were in a bag that I received. That is correct.

15 Q Is there any way in these other items, not item
16 1.3.1.1, but other items that we have, you indicate that
17 they testified positive. How much are in each one of
18 those positive tests. Is the whole item methamphetamine,
19 part of it, half of it, a third of it. Do you
20 differentiate what test, what the range is of what you are
21 testing?

22 A I am not sure if I understand. Are you asking the
23 amount of these?

24 Q Yes.

25 A With these tablets, it would -- it's hard to say.

1 Usually with methamphetamine, with these tablets we take
2 about that much. It is not weighed, it is just an eyeball
3 amount that this is what we need to analyze to see it on
4 the Gas Chromatograph/Mass Spectrometer.

5 Q Let me ask you this too. I am not a doctor and you
6 know way more about this than I do. The question I am
7 going to ask may sound silly so I apologize. You get a
8 bottle of what, aspirin, it will tell you how much the
9 active ingredient is by a percentage. Can you tell from
10 these tests how much the active ingredient is in each one
11 of them. And in this case, methamphetamine?

12 A No, we do not because, the State of South Carolina,
13 the law says that any mixture thereof, therefore if it is
14 in a pressed tablet and it has methamphetamine we consider
15 the entire tablet weight to be methamphetamine because it
16 is any mixture thereof.

17 Q So the answer is there is no way to differentiate, is
18 that correct?

19 A That is how we look at it. We cannot differentiate
20 and we cannot, but at this point, by law any mixture
21 thereof.

22 Q I have no further questions. Thank you very much for
23 answering my questions.

24 THE COURT: Solicitor, anything in redirect?

25 MS. BOYKIN: Nothing further, Your Honor.

1 THE COURT: Ma'am, you can step down. You are free
2 to leave the Court House. You are more than welcome to
3 remain with us. Ladies and gentlemen, it is my
4 understanding for that for today the State has one more
5 and that witness is going to be short. Is that correct?

6 MR. DANIEL: Very short, Your Honor. And after this
7 witness the State intends to rest its case.

8 THE COURT: And the examination of this witness will
9 be consistent with what we talked about in-chambers?

10 MR. DANIEL: Yes, Your Honor.

11 THE COURT: Very good. Call that witness.

12 MR. DANIEL: We call Casey Rembisz.

13 Casey Rembisz, being
14 first duly sworn, testified as follows:

15 DIRECT EXAMINATION

16 By Mr. Daniel:

17 Q You are Sergeant Rembisz with Newberry Sheriffs
18 Office, correct?

19 A Yes.

20 Q Okay. You have been with that agency a while, is
21 that correct?

22 A 19 years.

23 Q 19 years. I just want to go back to last month,
24 January 20th. Did you have occasion to go out to [REDACTED]
25 Highway 219, mobile home?

1 A Yes.

2 Q Okay. And did you locate an individual by the name
3 of Kendrick Blackwell at that residence?

4 A We did.

5 Q That is all I have.

6 THE COURT: Any cross-examination?

7 MR. LAUBSHIRE: I have no questions for this witness.

8 THE COURT: Thank you. You can step down. Anything
9 from the State?

10 MS. BOYKIN: Judge, at this time the State would
11 rest.

12 THE COURT: Okay. Thank you very much. Ladies and
13 gentlemen, the State has rested. This will be a good time
14 to go ahead and break for the evening. Let me explain to
15 you about tomorrow. I have got a commitment in Columbia
16 that I have got to attend to in the morning. So I want
17 you back here at 1:30, we will not start in the morning
18 because of my commitment. And so be back here at 1:30 and
19 should give you enough time to eat lunch before you get
20 here and we will proceed forward. Again, I remind you
21 concerning all of my instructions. I don't have to repeat
22 them, I know you have got them and have a good evening,
23 get some rest and we will see you tomorrow at 1:30. Have
24 a good evening.

25 (Whereupon, the jury was excused from open court for

1 the day.)

2 THE COURT: We will deal with any motions tomorrow
3 when I get here, advisement of Mr. Blackwell's rights
4 concerning testimony. We will take care of all of that.
5 Stay here and we are going to give you a draft of a charge
6 that you can look at. I should be back here around 11:00,
7 that should give us enough time to talk about the charge
8 and get some lunch.

9 MR. LAUBSHIRE: Be here at 11:00.

10 THE COURT: Or thereabouts. Hang around so she can
11 give you a copy of the draft charge.

12 (Whereupon, the trial will resume the next day at
13 11:00 a.m.)

14 February 24, 2022

15 THE COURT: We are back on the record in the State
16 versus Blackwell case. I had an informal charge
17 conference with the lawyers. And there were two issues
18 basically. One, based upon the Stewart case that the
19 inference language in the constructive possession of the
20 charge, two sentences to be deleted. And that has been
21 deleted so now we are down to one issue concerning whether
22 or not the Court will charge spoliation of evidence. So
23 let me hear what the State needs to put on the record and
24 certainly what the Defense needs to put on the record and
25 then I will make a final, official ruling.

1 MR. DANIEL: Your Honor, the State would formerly
2 object to the inclusion of the spoliation charge. And we
3 cite the State v. Reaves, 414 SC 118. Particularly
4 footnote five which essentially, what I interpret that is,
5 indicates spoliation is a civil doctrine. Also, Judge,
6 State v. McBride and that is 416 SC 379. And that deals
7 with the evidence on its face does not have exculpatory
8 value, things of that nature. Spoliation was denied, the
9 spoliation charge was requested in that case by the
10 Defense, denied by the trial Judge and they held that was
11 proper. In that case that was a far more egregious
12 example of evidence being lost. But here we have no bad
13 faith has been established in the unintentional purging of
14 this body cam footage. And we further believe that the
15 body cam footage, even if it was in existence, would be
16 admissible under the rules of evidence. There has been no
17 showing that anything exculpatory could be gained from
18 having this body cam footage of the search. And, Judge,
19 the spoliation language in and of itself is, the way I
20 read it is fairly hopelessly confusing for the jury.
21 Because on the one hand we talk extensively about the
22 State's burden of proof. On the other hand the spoliation
23 language creates a duty on the State to almost prove the
24 Defendant's innocence. And I don't know how a jury can
25 reconcile that language, even just looking at the language

1 itself and not even citing case law. I would also cite,
2 Judge, State v. Hutton, 358 SC 622. And, again, that just
3 talks about no other comparable evidence being available.
4 Here we have far superior evidence, photographic evidence
5 being available. And that certainly would remedy any
6 deficiency that Mr. Laubshire complains of. And he is
7 free to vigorously argue in closing about reasonable doubt
8 and they not be thorough and losing this evidence or
9 allowing it to purge. So I don't see any type of due
10 process violation, I don't see anything that Mr. Blackwell
11 could gain even by having this evidence available. Thank
12 you, Your Honor.

13 THE COURT: Thank you, Solicitor. Mr. Laubshire, be
14 glad to hear from you, sir.

15 MR. LAUBSHIRE: I think we can suppose that Mr.
16 Blackwell stands to gain a lot by this charge, probably
17 gain a lot by the evidence based on vigorous argument by
18 the State to keep this spoliation charge out in front of
19 the jury. As I discussed with Your Honor, off the record,
20 it is pretty apparent that there is some value here
21 because there is testimony to show that no one can account
22 for seven of the officers on the scene and no one can
23 account for what they were doing. And even the Major who
24 claims he is the Lieutenant's Supervisor won't even vouch
25 for their integrity to the officers he is not in control

1 of. And he was outside, not even watching his own
2 officers. So the video being destroyed, as far as their
3 bad faith, that goes to right to the fact of the timeline.
4 The timeline begins in January. They made the body
5 cameras, they knew they had the body camera, we request
6 the body cameras four months later. They had 14 months to
7 get these cameras, to get these body cameras and secure
8 them. And they didn't do that, they knew we wanted it,
9 they knew we needed it and they didn't take any steps to
10 preserve these items. So we have to be able to, since we
11 can't get into the police department and look at their
12 records, we are just guessing. And if this is going to be
13 the case where we have to guess, the tie has to go to the
14 runner, Mr. Blackwell, because he has no control over
15 this. This is what they did, not what he did. He is
16 having to pay the price for what they have done in this
17 case. We disagree completely that because the officers
18 can't tell us what the other officers were doing, the
19 arresting officer, the department said they have nothing
20 to do with this department that would have been captured
21 on video tape. That is nothing more than bad faith on
22 their part. And there is no way, I can be completely
23 wrong but I stand on this with this video tape as opposed
24 to the photographs. There is no way that photographs are
25 better than a video. That is just ridiculous. We had

1 these videos for a reason. The reason is, both officers
2 testified that across the Country there is evidence of
3 police misconduct that is being captured on these body
4 cameras. That is the purpose of having these videos and
5 they had it but yet they destroyed it. And they are
6 standing on that we didn't need to keep it because it is
7 not exculpatory. Sure it is exculpatory because we don't
8 have any information about other officers. Now, Your
9 Honor asked me to look at some case law to support that
10 position and I found a few cases that are related to this
11 matter. The first one I would like to cite, Your Honor,
12 and I will have to look at my phone to get the language
13 off of it.

14 THE COURT: Give me the two cases and cites, please.

15 MR. LAUBSHIRE: State v. Brown at 362 SC 258. And
16 also cites State v. Shuler, 344 SC 604.

17 THE COURT: All right, State versus Brown, 362 SC
18 258. And then State versus Shuler, 344 SC 604.

19 MR. LAUBSHIRE: Correct.

20 THE COURT: Let's just pause, go off the record and
21 let me read those and then we can start back.

22 MR. LAUBSHIRE: I do have one more case, Your Honor.
23 The bounds of it gets a little bit outside but I think it
24 is also important. That is State v. Jackson, 302 SC 313.

25 THE COURT: What was the page.

1 MR. LAUBSHIRE: 313.

2 THE COURT: 313, okay. Let's take a look at that.
3 Everybody be at ease for just a little bit.

4 (Whereupon, a short break was taken.)

5 THE COURT: We are back on the record. Now, since,
6 Brown and Shuler do not deal with spoliation of evidence.
7 How do those two cases help you. We just did a cursory
8 review of those cases. How does that help you since it
9 doesn't deal with spoliation of evidence?

10 MR. LAUBSHIRE: Judge, those cases don't directly
11 deal with actual spoliation. But they do stand for the
12 proposition, specifically that, generally the trial Judge
13 will require the charge for the correct law in South
14 Carolina.

15 THE COURT: Right.

16 MR. LAUBSHIRE: And the law to be charged to the jury
17 is determined by the evidence presented at the trial. In
18 this case we do have that issue, that this would be
19 helpful to the jury. And I am trying vigorously to get
20 the cite of the case. I understand that Chad Jenkins just
21 argued this to Judge Addy and Judge Addy's position was
22 that, it can happen in a civil trial and there is nothing
23 to say you can't have it in a criminal trial. I am trying
24 to get that information right now. The penalties --

25 THE COURT: The Postell case, I am not sure of the

1 correct pronunciation. We read that and that is different
2 facts.

3 MR. LAUBSHIRE: I am not sure of the cite of the
4 case, Judge. I don't know that it is actually an
5 appellate case. I believe it is still at the trial level.

6 THE COURT: It is an unpublished opinion and it was
7 filed June 30th of last year, it is unpublished. It went
8 to the Court of Appeals. This Postell was dealing with
9 some money that was taken, apparently as a result of their
10 arrest. The money was actually given back to the
11 Defendant's mother. That is why, that is why the trial
12 Court refused to charge spoliation.

13 MR. DANIEL: Your Honor, if I may counter balance one
14 more case that I omitted. State v. Batson, that is 261 SC
15 128.

16 THE COURT: That is in the stack you gave me, is it
17 not. Put it on the record, sure.

18 MR. DANIEL: Yes, sir. And that is where they
19 disapproved of an adverse inference in a criminal case
20 based on failure to produce a material witness. And I
21 know I said it in-chambers. But, Judge this really is a
22 charge on facts, the spoliation charge. I mean, it talks
23 about inferences. I mean, it has a multitude of language
24 that is the charge on the facts which the Supreme Court is
25 completely getting out of the business of charging on the

1 facts. And I know it is something that would go in the
2 Defendant's favor but at the same time -- I think
3 Solicitor Boykin had something. What case did you want to
4 cite.

5 THE COURT: Let me have Mr. Laubshire finish up his
6 argument and then I will turn back to the State.

7 MR. LAUBSHIRE: It is not a charge on the facts.
8 Actually it is a charge on the law because it is giving
9 the jury the tool it needs to martial the evidence in the
10 case. It can weigh the evidence that it has but it needs
11 to know what it can do with the evidence. By not telling
12 them what they can do with the evidence puts them at a
13 most serious disadvantage and they can certainly reconcile
14 those statements that are made in that charge. The charge
15 is the law, it is the law of South Carolina, it is a
16 proper charge and I believe should go to the jury. And
17 there is no reason why, there is no case that I found that
18 says specifically that it can't be used in a criminal
19 case. And they are very specific when they say these
20 things and they know we have in civil, if they meant that
21 they would have wrote it. And certainly to a civil case
22 and the penalties and ramifications are much less in a
23 civil case than it is in a criminal case. Most certainly
24 would be able to use a spoliation charge in a criminal
25 case.

1 THE COURT: Thank you, Mr. Laubshire. Anything else
2 from the State?

3 MS. BOYKIN: Judge, just one more case for the
4 record. State v. Breeze at 379 SC 538.

5 THE COURT: Wait a minute, give it to me again.

6 MS. BOYKIN: State v. Breeze, B-R-E-E-Z-E.

7 THE COURT: Is that in the stack too that you gave
8 me?

9 MS. BOYKIN: Judge, not in the stack but it is cited
10 in the State v. McBride.

11 THE COURT: And then the case cite?

12 MS. BOYKIN: It is 379 SC 538. And, again, that just
13 stands for the same proposition as McBride. The jury,
14 they request a jury charge of spoliation and that, again,
15 was denied and that was upheld. And I just also wanted to
16 put on the record the South Carolina Constitution
17 specifically says, Judges shall not charge jury's in
18 respect to matters of fact -- our argument would be that
19 this is a comment on the facts and so it would be an
20 improper jury charge.

21 THE COURT: Okay.

22 MR. LAUBSHIRE: I have one more case and it seems to
23 have something to do with this. But State versus
24 Cheeseboro, 346 SC 526. That, it specifically says there
25 is no criminal cases, of the loss or destruction of

1 evidence does not constitute due process violation,
2 warrants suppression of the evidence, presumption of the
3 evidence is adverse to the State, which makes this
4 spoliation charge quite proper here for the jury. It is
5 the law of the State. It is not on facts, there is no
6 facts mentioned in that charge.

7 THE COURT: Okay. Well, you know this is a close
8 case. And, again, touched on a little bit back
9 in-chambers and I hated to and was not intentional at all
10 to mislead you, Mr. Laubshire, concerning that that was
11 definitely going to be a charge. As I normally do, a
12 thought comes to mind, I throw it in and discuss it and
13 may pull it back out. So I hated to mislead you in any
14 way, that was not the intent of the Court. It is a close
15 case, probably we need some Appellate guidance, sometime
16 along the line. I am going to, based upon the cases that
17 the State has offered, I reviewed your cases as well, I am
18 going to not charge spoliation. And I think there has to
19 be some element of bad faith, some element of exculpatory
20 value in that. And as I observed back in-chambers, while
21 in some cases, video certainly is a whole lot better than
22 say, photographs. I think in this case, while I am not
23 suggesting that the photographs are any better than the
24 video but in this case I think the photographs do a fairly
25 good job of what maybe the video would have also shown.

1 So looking at the whole picture on this I am going to not
2 charge spoliation of evidence. And, again, probably a
3 pretty good issue that our Appellate Courts need to take a
4 look at.

5 All right, explain too, if you haven't already Mr.
6 Laubshire, what I am about to advise, or not advise but
7 instruct Mr. Blackwell on concerning his right to testify
8 or not testify.

9 MR. LAUBSHIRE: Your Honor, I have had a discussion
10 with Mr. Blackwell, it is my understanding the Court would
11 inquire, whether he may change his mind. It is my
12 understanding that he does not intend to testify or
13 present a case.

14 THE COURT: Okay. Very good, thank you. Mr.
15 Blackwell, I just need you to stand and I just need to go
16 over a couple of things and have you sworn in. Madam
17 Clerk, will you swear Mr. Blackwell in.

18 Kendrick Blackwell, being
19 first duly sworn, testified as follows:

20 THE COURT: Mr. Blackwell, I am going to, at this
21 time, explain to you certain of your rights. If you do
22 not understand anything I say please let me know that, if
23 you want me to explain anything in more detail I will
24 certainly try to do that as well. Okay. We have now
25 reached the stage in this trial where you may present your

1 defense. You have the right to claim the protections
2 given to you by the Fifth Amendment to the Constitution of
3 the United States. And this Amendment states in part, no
4 person shall be compelled in any criminal case to be a
5 witness against himself. In other words, no one can make
6 you testify if you don't want to testify. This means you
7 cannot be required to testify in this case, you have the
8 right to testify in your own behalf. However, no one can
9 make you testify. This is a personal right, no one can
10 waive this right except you, sir. If you decide to
11 testify you are subject to the same rules that govern
12 other witnesses and you may be examined and cross-examined
13 on any relevant issue in this case. In addition, if you
14 have any convictions involved of dishonesty or false
15 statement or for crimes punishable by imprisonment for
16 more than one year, the Court determines that the
17 probative value of admitting this evidence outweighs its
18 prejudicial effect to you. The Solicitor would be able to
19 introduce your record to attack your credibility. If you
20 decide to testify, this decision on your part must be
21 freely, voluntarily and intelligently made with the
22 knowledge of the protections given to you by the Fifth
23 Amendment and the consequences of your decision to
24 testify. If you decide not to testify, this also must be
25 freely, voluntarily and intelligently made by you. And if

1 you decide not to testify I will specifically instruct the
2 jurors that they cannot give the fact that you did not
3 testify any consideration whatsoever, there is to be
4 absolutely no prejudice to you because you did not
5 testify. It is left entirely up to you whether or not you
6 testify. You certainly have the right to talk with your
7 attorney, any family members, friends, anyone else. But
8 the final decision must be left entirely up to you. Have
9 you understood what I explained to you, sir?

10 MR. BLACKWELL: Not really.

11 THE COURT: Okay. All right. Let me, let me just
12 kind of explain maybe in my own words. First of all, the
13 Constitution of our United States says that no criminal
14 Defendant, you are a criminal Defendant, you are on trial.
15 I am not saying you are guilty but you are on trial for a
16 criminal offense. No one can be forced to testify. In
17 other words, your lawyer can't force you to testify if you
18 don't want to; the Solicitor can't force you to testify if
19 you don't want to; even me cannot force you to testify if
20 you don't want to. Okay. Do you understand that part so
21 far?

22 MR. BLACKWELL: I don't understand.

23 THE COURT: Do you know what it means to testify?

24 MR. BLACKWELL: Not really.

25 THE COURT: Let me ask you this. The police

1 officers, they sat in this chair right over here and they
2 were asked questions and they gave answers. They were
3 testifying, they were put under oath and they were
4 testifying about the case. Okay. They were giving their
5 version of their involvement, their version of what
6 happened. Okay. Do you understand that part?

7 MR. BLACKWELL: Yes.

8 THE COURT: So if you decide to testify then you will
9 sit right over in that chair and be placed under oath to
10 tell the truth and your lawyer would ask you questions;
11 the Solicitors would also ask you questions just like your
12 lawyer did with the police officers. Okay. Understand
13 that so far?

14 MR. BLACKWELL: Yes.

15 THE COURT: So if you decide to testify you would be
16 over here in that chair as I just stated. You make the
17 decision whether or not you want to do that, whether or
18 not you want to sit over in that chair and answer
19 questions from your lawyer and answer questions from the
20 Solicitors about anything related to this case. Okay.
21 Now, if you decide to testify they might will bring up, if
22 you had any prior convictions on your record. I don't
23 know what your record is but if you have any prior
24 convictions, sometimes the State would be able to bring
25 that out to the jury, let the jury know that you have some

1 prior convictions. Again, I don't know if you do and I
2 don't know if you do have any prior convictions what those
3 are. So I can't say they would definitely be mentioned to
4 the jury or not but there is that possibility. Okay. So,
5 but if you don't want to sit on that witness stand and
6 answer questions from your lawyer and answer questions
7 from the State no one including myself can force you to do
8 that. Okay. Now, do you understand a little bit better?
9 Tell me what you don't understand about what I have
10 explained to you. You already told me you understand what
11 it means to testify in a case. You have already told me
12 you understand that. Okay. So what don't you understand?

13 MR. BLACKWELL: I am not going to say anything.

14 THE COURT: Okay. You don't want to say anything.
15 You don't want to sit in the witness stand and say
16 anything or answer any questions. Is that right, is that
17 what you are telling me?

18 MR. BLACKWELL: Yes, sir.

19 THE COURT: Okay. Thank you. I will accept that.
20 And, Mr. Laubshire, then whenever we bring the jury out
21 you will just need to, the Defense rest. Now we have not
22 placed any motions on the record and so I will certainly
23 give you an opportunity to do that as well if you so
24 choose.

25 MR. LAUBSHIRE: You want to do that now, Your Honor?

1 THE COURT: Yes, might as well. I am going to kind
2 of have everything done before the jury comes out.

3 MR. LAUBSHIRE: Yes, Your Honor. Having had an
4 opportunity to go over all the witnesses and look at the
5 evidence in this case. I would like to make a motion for
6 a dismissal based on Rule 5 of Brady because of the
7 destruction of the video tape in this case. Essentially
8 all the same things that we cited for spoliation charge,
9 although it may not be for the spoliation charge, it would
10 certainly be a requirement for Brady violation in this
11 case. So we are asking for this case be dismissed for
12 that reason.

13 THE COURT: Okay. All right. And your motion for
14 dismissal, any other motions you would like to make?

15 MR. LAUBSHIRE: We want to make a motion for a
16 directed verdict in this case.

17 THE COURT: Okay.

18 MR. LAUBSHIRE: Based on all the evidence put in the
19 light most favorable to the State. The evidence shows,
20 direct testimony of Officer Stribble, asked on his
21 cross-examination regarding the evidence that they have in
22 this case that ties these substances to Mr. Blackwell.
23 Setting aside Stribble's feelings, emotions, training,
24 experience; what evidence does he have that says these
25 substances belong to Mr. Blackwell. And he said none. So

1 there is no evidence about his possession, constructive or
2 direct or otherwise; the direct testimony of Lieutenant
3 Stribble, this is his case.

4 THE COURT: I don't recall Stribble specifically
5 saying there is no evidence other than based upon, I know
6 you got in pretty much detail about feelings and
7 experience and that sort of thing. But I don't recall
8 Lieutenant Stribble specifically saying, other than my
9 feelings and experience we have nothing. I don't recall
10 that being specifically said.

11 MR. LAUBSHIRE: It was in the chain of questions that
12 had to do with the ID's being found, the different ID that
13 was found and the third party witness who was also a
14 residence at the same time and how he excluded these
15 people and what he used to do that. That was in that
16 bracket of questions when I asked him specifically,
17 besides all of that stuff he testified to, experience and
18 those things; what real evidence do you have. I actually
19 asked him twice. The whole time he told me he didn't have
20 it. So that would go directly to the element in this
21 case. There is no evidence in the record by way of
22 testimony from the State. The only witness, this is his
23 case, to tell us what evidence goes directly or
24 constructively linking back to Mr. Blackwell.

25 THE COURT: Thank you, Mr. Laubshire. Anything to

1 put on the record from the State on the two motions; one,
2 dismiss based upon the video tape being lost or destroyed;
3 or the Brady type motion; and then the motion for directed
4 verdict. You want to respond to those?

5 MR. DANIEL: Briefly, Your Honor. There has been no
6 bad faith established. You would have to have evidence of
7 intentional destruction, I believe. All of the evidence
8 suggest it was unintentionally purged from their data base
9 for a number of reasons. It is not exculpatory evidence
10 on its face and there is a, it is counter balanced with
11 comparable evidence, being photographed evidence. That is
12 wholly without merit, any due process violation. Rule 5
13 violation, again, if that were a Rule 5 violation that
14 would have been ruled on at the outset. So that is a moot
15 point on that motion. As far as directed verdict motion,
16 again, it is the existence or nonexistence of the
17 evidence, not its weight. And I think there is so much
18 circumstantial evidence in a constructive possession
19 theory, testimony by Iyeshia Sims that this was Mr.
20 Blackwell's trailer; surveillance conducted by the
21 Sheriffs Office on four prior occasions linking Mr.
22 Blackwell being present at the property. Of course he was
23 present the day of the incident, January 30th. And then
24 as of last month he was still present on the same
25 property; social security card; bank card; power bill in

1 his name; and I may be missing something. But those, at
2 the top of my head, are all evidence connecting him to
3 having dominion and control of the property. Furthermore
4 the house is riddled with paraphernalia. So that even
5 goes to the dominion and control of the drugs itself,
6 beyond just control over the property. So all the
7 testimony from officers indicating that this was Mr.
8 Blackwell's trailer to the exclusion of anyone else. Of
9 course, that would survive a directed verdict motion. And
10 Mr. Laubshire's comment on Lieutenant Stribble's
11 testimony. I do not recall Lieutenant Stribble saying
12 that he had no evidence. And no one remembers that. I
13 would just remind Mr. Laubshire that Rule 3.3, candor to
14 the tribunal, no one remembers that. And at a minium that
15 is a mischaracterization of the testimony, by my
16 recollection. I do not remember him saying that at all.

17 THE COURT: All right. Well, concerning the motion
18 for directed verdict, we all know that I am not concerned
19 with the weight, I am concerned with the existence of any
20 evidence, this is a constructive possession case. We have
21 evidence as far as whose residence, where the drugs were
22 found. So I think there is enough to send to the jury.
23 Concerning the motion to dismiss based upon the Brady
24 violation. Again, crucial element of the Brady violation
25 is the evidence must be exculpatory and we don't, I mean

1 it could be, it could not be, we don't have anything
2 really definitive to tell us these body cam videos, you
3 know, would have any exculpatory value. I am going to
4 deny both motions, both of the motions and send this case
5 to the jury. All right. Closing arguments, we all know
6 based upon Beatty, since the Defense did not put up a case
7 then the State argues in full and then the Defense argues
8 in full and there is no reply, reply closing argument. We
9 will start back at 1:30. Anything else we need to put on
10 the record from the State?

11 MR. DANIEL: No, Your Honor.

12 THE COURT: And from the Defense? We can take a few
13 minutes right before 1:30 if you are thinking of
14 something.

15 MR. LAUBSHIRE: Yes, Judge, I am not sure that I want
16 to make this motion. We can have just a short period.

17 THE COURT: If you decide you want to make another
18 motion, we will get together a little bit before 1:30.

19 MR. LAUBSHIRE: Shouldn't take maybe two minutes if I
20 decide, I have to discuss with my client.

21 THE COURT: Sure.

22 (Whereupon, a lunch break was taken.)

23 THE COURT: Anything on the record before we bring
24 the jury out, from the State?

25 MR. DANIEL: No, Your Honor.

1 THE COURT: From the Defense?

2 MR. LAUBSHIRE: Nothing, Your Honor.

3 THE COURT: Okay. Are y'all ready to do your
4 closing?

5 MR. DANIEL: Your Honor, they just need to rest on
6 the record.

7 THE COURT: Exactly.

8 MR. DANIEL: And we are ready.

9 THE COURT: Are you ready?

10 MR. LAUBSHIRE: The Defense is ready, Your Honor.

11 THE COURT: Very good. Thank you. Bring them out.

12 (Whereupon, the jury came into open court at
13 approximately 1:45 p.m.)

14 THE COURT: Good afternoon, ladies and gentlemen. I
15 hope you had a good evening and a good morning and ready
16 to get back to work. Mr. Laubshire.

17 MR. LAUBSHIRE: The Defense rest.

18 THE COURT: Okay. All right, the Defense has rested.
19 That means that the evidentiary record in this case is now
20 closed. Ladies and gentlemen, what we have left to do is
21 that the lawyers will give their closing arguments to you.
22 The State will go first and then the Defense. And then we
23 will take a short break and then I will bring you back and
24 I will charge you the law that applies to this case. And
25 then after that is done I will instruct you to begin your

1 deliberations. This is the last time that these good
2 lawyers have to advocate for their respective sides. So
3 please give your undivided attention. Solicitor Daniel,
4 are you ready?

5 MR. DANIEL: We are, Your Honor. Thank you. If it
6 please the Court. Madam Forelady, members of the jury.
7 Good afternoon. Thank y'all for your patience and
8 diligence this week. You have to be patient in this
9 process and it is worthwhile because this is really a
10 fundamental fairness. And I hope I didn't come off at any
11 point in the trial too abrasive. I hope that Mr.
12 Laubshire and I, I respect his role and process as a
13 Defense attorney representing his client. I respect
14 Kendrick Blackwell and I want him to be treated fairly, I
15 do. I want to show humanity to this man, I want to make
16 sure he has his constitutional rights protected. But at
17 the same time I have evidence that I believe supports a
18 guilty verdict. And my job as a Prosecutor is to prove my
19 case. As a Prosecutor, I don't have the clients in the
20 traditional sense like Mr. Laubshire. He has one client
21 and he owes an absolute duty to advocate for that client.
22 He owes that client a duty of loyalty and that is it.
23 Whereas the State, as a Prosecutor, we have a job to do
24 justice. We don't have a job to evict, we have a job to
25 do justice. And when we are prosecuting somebody for a

1 violation of a criminal law it is because, in theory, the
2 laws are passed and they are meant to protect everybody as
3 a whole. So I guess in that sense I am representing the
4 people. A lot of States they say the people versus
5 Kendrick Blackwell. Here we say the State versus Kendrick
6 Blackwell. I represent the people and you can say that.
7 And my client, even though I don't have a client in the
8 traditional sense, my client has a case. I have evidence
9 of a crime. And it is nothing personal against Mr.
10 Blackwell. I wish him the best of luck in his life. And
11 I look at this as objectively as I can. And at times a
12 trial can get heated and we can get frustrated. Again, it
13 is not personal animus to Mr. Blackwell. And this trial,
14 I heard there was two lawyers one time talking about
15 debating about the role of a jury trial. What is the best
16 way to articulate what a jury does. And it was an
17 interesting debate. And one lawyer said, well, the job of
18 a jury is to render a true and just verdict based solely
19 on the evidence. And that is correct. And the other
20 lawyer said, well, no, a jury has to decide one question.
21 Whether there is enough evidence to convict. And they are
22 both right, both lawyers are right. One is a means and
23 one is the end. And it is time away from your jobs and
24 your family and jury service requires some sacrifice, time
25 is the most valuable commodity that I know of. We don't

1 want to waste your time. But at the same breath we have
2 to treat Mr. Blackwell in fairness. And so we have to be
3 methodical about it. His Honor has to make rulings. We
4 don't want to do anything that would prejudice his case.
5 We only want to present evidence that will help y'all
6 reach a decision about whether he is guilty. And the
7 standard is proof beyond a reasonable doubt. And on that
8 power point slide, proof beyond a reasonable doubt. What
9 does that really mean, break that down. That is our
10 burden and anything I say, Mr. Blackwell has no duty to
11 prove his innocence. The burden of proof is solely on the
12 State. He doesn't have to prove anything. If I say
13 something don't misconstrue it but the burden is totally
14 on the State. Break that down, proof beyond a reasonable
15 doubt. Really and it will be in your instructions that
16 the Judge gives you but are you firmly convinced. Are you
17 firmly convinced that Kendrick Blackwell, a little over
18 two years ago now, possessed trafficking amounts of
19 methamphetamine. That is really the one question you have
20 to answer. And you have to reach a consensus, all twelve
21 of you, it has to be unanimous. And that is your duty, it
22 has to be unanimous and I know that is a tall order in
23 this day and age to get twelve people to agree on
24 anything. But that is our system. And the reason it is
25 that way is to protect the individual from being

1 prosecuted by the State when there is a lot of evidence.
2 But I submit to you that is not the case here. And, Mr.
3 Laubshire, he will get up here and he will do a good job
4 for his client and he will point out, I think y'all know
5 what he is going to point out, the lack thereof. And we
6 will get into that in a minute, about the lack of body cam
7 evidence. But I think if we stay focused in this case and
8 truly look at a common sense application here of the
9 evidence and all the testimony, you will find out that the
10 body cam situation has really, it is of no consequence to
11 this case. So trafficking methamphetamine, that's the
12 crime and I will break those elements down. So the State
13 must prove that Kendrick Blackwell did commit the
14 following within Newberry County on or about January 30th
15 of 2020. So the first element, did it happen in Newberry
16 County. That trailer, that mobile home, [REDACTED] Highway 219,
17 we know that is in Newberry County. It is actually just
18 about a mile or so past Newberry High School, right near
19 Samsung, right hear Komatsu. We know that is the incident
20 location and it is squarely within Newberry County limits.
21 Knowingly in actual or constructive possession of 28 grams
22 or more of methamphetamine. That is it, those are the
23 elements of this crime. So did this possession take place
24 within Newberry County and did Kendrick Blackwell possess
25 the threshold amount to be considered trafficking. And

1 trafficking is just a word, I think Solicitor Boykin
2 touched on it. Trafficking just means you are possessing
3 a lot of methamphetamine, a lot, and what our legislature
4 has deemed to be a lot of methamphetamine. This is not
5 just a tiny personal consumption in a tiny bag. This is,
6 as it was testified to by a narcotics officer, 20 years
7 experience, this was approximately that much
8 methamphetamine has a street value upwards of \$2,000.00
9 dollars. That is a lot of methamphetamine. And it was
10 not just methamphetamine but it was a mixture, it was a
11 combination of methamphetamine and bath salts, some of
12 these substances. But, again, our law defines
13 methamphetamine as methamphetamine or any mixture, mixture
14 thereof. So if it contains methamphetamine and maybe
15 other things such as bath salts you still count it as
16 meth. That is how we define methamphetamine, it doesn't
17 have to be purely methamphetamine. And this case, there
18 are two types of possession. Next slide, Mr. Bentley,
19 please. Two types of possession, actual possession
20 meaning when the police showed up that day with a search
21 warrant in hand, if Mr. Blackwell would have all of those
22 eight baggies in his hands that is actual possession.
23 That is an example of actual possession. They walk in,
24 they come to the door, he is holding all eight baggies in
25 his hands or if he had all the drug evidence, all the

1 plastic baggies in his pockets. That is actual
2 possession. Pretty straight forward, you have to have
3 physical custody of the drugs. So we know that doesn't
4 apply, right. Clearly does not apply to this case, actual
5 possession. I just want to show you the contrast. This
6 case is constructive possession and constructive
7 possession deals with essentially the property on which
8 the drugs are found. Who has, what we define or what we
9 call dominion and control over the property. Who is in
10 control of that property. Who is in control over those
11 drugs. And there is varying ways you can look at it but
12 the fact that if you find Kendrick Blackwell to be the one
13 who is in control of that property, the one who is renting
14 that property, the one who everyone points to as being the
15 occupant of that property, the one where he lays his head
16 at night. And then you see there is other evidence
17 suggesting he knows the drugs are there, there are drugs
18 hidden throughout the house. You can certainly draw with
19 a reasonable conclusion that he possessed those drugs.
20 Those are his drugs. And you can make certain inferences
21 from the evidence. I mean you are free to do that. And
22 all the testimony, Mr. Bentley, let's see that slide.
23 Here is the theory of the case. How many items link to
24 Kendrick Blackwell were found throughout that residence in
25 multiple areas. You have got his bank card with his name

1 on it; you have got a wallet with a social security card;
2 it is Kendrick Blackwell's social security card. You have
3 the power bill on the refrigerator, attached to the
4 refrigerator. The power bill is in Kendrick Blackwell's
5 name, he is the one paying the power bill. The power bill
6 is being mailed to that address. And that is the actual
7 official record from Newberry Electric Coop and you see
8 what is all highlighted. You have Kendrick Blackwell, the
9 service address, of course, is the [REDACTED] address. But also
10 above that is the name and address is Kendrick Blackwell.
11 And that is the same address. You know, it is one thing,
12 you can make the argument, well wait, if it is a service
13 address he is just paying the power bill but he is also
14 declaring that I also live there too. And he would have
15 every reason to say that is where I live because if he
16 doesn't pay his power bill they will turn it off. So you
17 have all of that evidence. You have Iyeshia Sims
18 testimony, his cousin who had been over to that mobile
19 home half a dozen times or so, I think she testified maybe
20 six or seven times, something like that. And every time
21 she would go over there Kendrick was there and she
22 testified that Kendrick was the only person living there
23 at the time. That is his mobile home and she would go
24 over there prior to his shift at Samsung starting and she
25 would just go over there and hang out with her cousin,

1 kill some time for an hour or two. And on that particular
2 day that they, the Sheriffs Office carried out that search
3 warrant, she was caught up in it, she was present on
4 scene. And so, yes, she was taken into custody but her
5 testimony was very crucial. If she, and here is how a way
6 to access her credibility. You know, if she really wanted
7 to help herself out wouldn't it make sense to say, yeah,
8 those drugs, I saw Kendrick have all of those baggies of
9 drugs. Those were his drugs, I saw him handle them. But,
10 no, her testimony was more reserved and she says that I
11 didn't see Kendrick -- I didn't see any drug evidence and
12 I didn't see Kendrick have the drugs. And you know what,
13 the physical evidence where the drugs were found suggest
14 that that is credible because the drug evidence was in
15 areas, kind of concealed areas throughout the house. So
16 her testimony is plausible. Now there were other
17 paraphernalia out there but if she really wanted to help
18 herself out wouldn't she just have gone all in with
19 Kendrick, pointing the finger directly at Kendrick. But,
20 no, her testimony is very consistent with where the drugs
21 were found. It is very plausible that she didn't know
22 where the drugs were. But yet at the same time she is
23 establishing Kendrick Blackwell owns that property. And
24 they were on good terms before this. But not now.
25 Lastly, kind of along the same line is the, I think Mr.

1 Laubshire asked Lieutenant Stribble about connecting Mr.
2 Blackwell to the property and whether you had done
3 surveillance on that property connecting Kendrick. And
4 ultimately it got out that, yes, the Sheriffs Office had
5 done several surveillance related activities on four
6 previous occasions to the date in question. Actually two
7 days prior he was surveilled being at that residence,
8 Kendrick was. And then three other times in 2019, and
9 those dates are listed on that power point, April 16th of
10 2019; April 25th, 2019; July 23rd, 2019 and like I said,
11 two days prior to the search warrant being carried out.
12 He is surveilled at that property. And, you know, lastly,
13 just last month you had Deputy Casey Rembisz, that was the
14 quickest testimony I ever had in my life. She is the last
15 witness and she said that, she as a Sheriff's Deputy of 19
16 years, she went out to that property just last month and
17 located Kendrick Blackwell at that same property. So it
18 has been uncontradicted that that property, he has
19 dominion and control. And that is what this case really
20 hinges on. Street value of the methamphetamine, no one is
21 going to just have that methamphetamine just sitting
22 around that house. That much drugs scattered around the
23 house and unknowingly so. Only somebody with intimate
24 knowledge of the house is going to have drug evidence in
25 those areas. The bedroom, Kendrick's bedroom and all the

1 testimony from Lieutenant Stribble, Major Dennis, all of
2 it suggested that Kendrick Blackwell was the only
3 individual at that mobile home. They had nobody else that
4 they thought actually resided there. Total of eight
5 baggies is what we are talking about, eight baggies were
6 seized. Five baggies were powder like substance; three
7 baggies contained pills, multi-colored pills, tablets.
8 And within all of those baggies, it all testified
9 positive, essentially for some form of methamphetamine or
10 a combination. Stimulants, methamphetamine and bath
11 salts. Not, your pharmacist at CVS is not going to be
12 dispensing these drugs. I will go ahead and tell you
13 that. Six plastic baggies were found in the kitchen alone
14 in two different sections. The cabinet area, closest to
15 the living room and then a cabinet area above the
16 microwave. Two baggies were found in the bedroom in that
17 black Champion bag. And then within the kitchen you have
18 all of those items linking Kendrick Blackwell to the
19 property. Wallet, social security card, bank card and
20 then, of course, the infamous power bill. And what is
21 significant about that power bill, that power bill, it was
22 connected to his name on August 6th of 2019. That is when
23 he established service for that property in his name. And
24 as I pointed out, Walter, if you could go to State's 34.
25 That's Kendrick Blackwell's ID card issued by the South

1 Carolina DMV. That ID was issued on August 6th of 2019.
2 Do you notice that the [REDACTED] address is not what Kendrick
3 Blackwell told the DMV where he lived. Don't you find
4 that compelling to a certain extent. Because you look at
5 it this way. He has to give his address where he lives so
6 his power don't get cut off, that is his true address.
7 But yet for government records, law enforcement can access
8 DMV records, clearly. I think that Lieutenant Stribble
9 testified that LawTraks and of course they have access to
10 DMV records, there Kendrick Blackwell put a [REDACTED] Palm Lane,
11 Foxtrot Run address as his residence. Lieutenant Stribble
12 testified that he looked up that residence, that address
13 on that ID card in the GIS system, the Geographic
14 Information System and that address is not in existence.
15 Why do you think somebody would do that. For government
16 purposes. Put an address not in existence but yet you
17 know they live at [REDACTED], they don't want their power cut
18 off so they give their true address then. But if they are
19 trying to evade detection by the government wouldn't it
20 make sense to give an address not in existence. I found
21 that to be very compelling and go to consciousness of
22 guilt, that he wants to distance himself, at least for
23 government authorities, hey, I don't live at [REDACTED], look at
24 my ID card. And that ID card was on his person, that is
25 actual possession, the ID card. The social security card

1 in the kitchen drawer, that would be constructive
2 possession. So that is kind of an example of the
3 difference. This pen is actual possession, the pen is in
4 my office is constructive possession. And, again, you
5 will have all of the exhibits back there. I don't
6 necessarily need to go through all of the photos of the
7 baggies of drugs. But, if you could, Mr. Bentley, pull up
8 19. Here is quite a little work shop area here on that
9 kitchen counter. If you will notice and you will see a
10 digital scale on the left side; you will see cash; you
11 will see plastic baggies. And, I believe, if I am not
12 mistaken, this is my perception, go with your own
13 perception. That looks like a little hammer right near
14 the cash. And, again, you will recall the testimony of
15 the SLED drug analysis, Shana Sorrells and she gave
16 testimony about those tablets being compressed in some
17 cutting agent. So wouldn't a hammer make sense to kind of
18 compress cutting agents with the raw powder,
19 methamphetamine and bath salts. When you are compressing
20 you have got the hammer and then you weigh it. And then,
21 Walter, if you could go to State's 11, please. And there
22 you have the cutting board with the razor blades. All
23 consistent of item, paraphernalia items that would be used
24 in the illegal drug trade, drug activity. So that just
25 bolsters the theory that these drugs, and you know, the

1 insinuation is these drugs that law enforcement, all of
2 their whereabouts, Lieutenant Stribble can't account
3 everyone's whereabouts once they got to the house. And,
4 you know why he is doing that, he is suggesting something
5 nefarious is going on, there is something improper going
6 on. But there were plenty of officers that handled that
7 scene. It was just Kendrick Blackwell and his cousin,
8 Iyeshia. That trailer is far off the road, long driveway.
9 And they set up a perimeter but yet we don't have body cam
10 footage from Lieutenant Stribble and Major Dennis. And as
11 if them having a body cam you could still account for all
12 of the other officers so I find that nonsensical. But the
13 insinuation that they cannot account for all of the
14 officers, I firmly believe he was trying to put the idea,
15 plant the seed in your head that these officers engaged in
16 improper activity and there is no evidence to suggest
17 that. Do you think Major Dennis, did he strike you as a
18 man who would allow anything improper to take place under
19 his watch. He is the Major, 27 years of law enforcement
20 experience. He is Lieutenant Stribble's supervisor, does
21 he strike you as a man who would cut corners
22 intentionally. Now that body cam footage and I will get
23 to that later. But what is the far superior way to
24 document where drugs are found. And it is my position
25 that it is photographs which is what we have. We are not

1 trying to hide anything, I promise you. I submit to you
2 that much. Digital scales were found throughout the
3 property, I think five in total and we have that in
4 evidence. I believe that is State's 33. And also in the
5 kitchen area, Walter, if you could go to State's 30. And,
6 again, I think on cross-examination Mr. Laubshire, he
7 would have a stack of photos and he would tell Lieutenant
8 Stribble, look through all of the photos, even though he
9 wouldn't identify which photos he wanted to look at. He
10 would say, did that kitchen have any drawers based on
11 those photos. Well, that is kind of a misleading question
12 because maybe the photos didn't show any drawers but in
13 reality there were drawers in that kitchen and there is a
14 drawer. Bank card and you see a wallet, that is Kendrick
15 Blackwell's name. And then you have the social security
16 card. These are all evidence linking him to the property.
17 Go to 31, Walter, please. And there you have it. And if
18 you notice on that power bill, the power bill, his power
19 list as being disconnected a little over two weeks after
20 the police execute that search warrant. And I find that
21 interesting as well, that the power bill is disconnected
22 and taken out of his name two weeks after they do a drug
23 raid on his house, essentially. And you will see that in
24 the power bill record, that is State's number 4. The
25 total weight of all the bags was, the lab weight which was

1 properly calibrated, you heard testimony was 28.51 grams.
2 And she tested about eight samples. And she has been
3 qualified as an expert a number of times in this court.
4 Lieutenant Stribble, he was the one who collected all the
5 evidence. Now, he wasn't necessarily the first officer on
6 the scene to actually spot the drug evidence first because
7 they work in teams, it is a collective effort. You could
8 have one officer find the drugs and say, hey, Lieutenant
9 Stribble, just found some drug evidence over here.
10 Lieutenant Stribble with the camera, go over there, take
11 the photo and then he would be the one to actually collect
12 it, put it in the evidence bag. So the chain-of-custody
13 is clear. You don't have multiple people who are
14 unnecessarily in the chain-of-custody. And they do that
15 to preserve the integrity of the evidence. And I think
16 you can see that and there is really no better picture to
17 symbolize how a team effort is. If you go to State's 24,
18 Walter. That is not Lieutenant Stribble, they do not wear
19 camo, that is another officer holding up the drug evidence
20 while Lieutenant Stribble takes the photo. And Lieutenant
21 Stribble can't remember who exactly found the drug
22 evidence first. But he would photograph it and he would
23 be the one to collect it; seal it up in a bag; get back
24 into his government patrol car; drive back to the Sheriffs
25 Office, put it in their evidence locker. He is the

1 evidence custodian and then later on take it to SLED March
2 17th. There it was analyzed later in the Fall and you
3 will have that chain-of-custody documentation, that will
4 be evidence. And there is no evidence to suggest that was
5 tampered with. I think Mr. Laubshire made a big deal
6 about the policies of the Sheriffs Office and violations
7 of the policy and about protecting the integrity of crime
8 scenes. And I found that really an interesting point to
9 harp on and it -- hypothetical drug evidence, it is on the
10 ground. All right. By the way, there are six other
11 officers around and this is a private home, no where in
12 the public. But yet we need to put some tape here, again,
13 this is no sidewalk where people were walking by at the
14 public, this is a private home, set back from the road.
15 You have got six officers. Kendrick Blackwell and Iyeshia
16 are already in custody, they have already done a
17 protective sweep of the property. I am going to do this.
18 They wouldn't ask me to put up crime scene tape, I don't
19 think. But, yeah, we need to do that, right. We need to
20 do that because if you didn't do that, that suggest you
21 violated the policy and therefore whatever you say next
22 can't be trusted. And there is the drug evidence and we
23 are in a private home, private road and yet we need to put
24 a crime scene tape up. Does that make sense. Maybe Mr.
25 Laubshire, and again, he is doing his job but I have every

1 right to point out how that is nonsense, irrelevant,
2 inconsequential. But, again, I respect what he is doing
3 but I want y'all to stay focused on the real issue at
4 hand. This case, Mr. Laubshire would have you to believe,
5 I assume, based on his line of questioning, that this
6 should rise and fall on the lack of body cam evidence.
7 The fact that the body cam footage from at least
8 Lieutenant Stribble and Major Robert Dennis, the fact that
9 it was unintentionally purged from their data base, that
10 it wasn't downloaded immediately, you can't trust anything
11 else. And for some reason there is something on that body
12 cam footage that would be so favorable to Mr. Blackwell,
13 the fact that we don't have it, cut him loose. That would
14 be the argument I am assuming. And forget the credibility
15 of the officers testimony, forget Iyeshia's credibility
16 because, again, if she wanted to go all out and really
17 distance herself why wouldn't she just say, yeah, it was
18 Kendrick's drugs. I saw them, they were sitting on his
19 lap right before the police knocked on the door. I had
20 nothing to do with it. But, no, she didn't say that
21 because those drugs were found in concealable areas. She
22 tempered her testimony and it is consistent with the
23 evidence where it was located. And, again, she is, you
24 have got to sympathize with somebody in Iyeshia's
25 situation. I think that is at a minimum and I do, I

1 greatly sympathizes with her predicament. Is body cam
2 footage superior to photographs. That is a pivotable
3 question, right. And I was thinking about that. I think
4 Mr. Laubshire, the way we kind of left it, well, we didn't
5 leave it yesterday on that. But on his recross of Major
6 Dennis, he asked him, you go to the movies. And Major
7 Dennis was like, yeah, I go to the movies. And he was
8 like, wouldn't you agree watching a movie is way better
9 than looking at pictures. Okay, but I agree, I like
10 movies. But for purposes of this case, again, let's stay
11 focused. Mr. Laubshire, we have got to stay focused. I
12 made a little demonstration at home last night just to
13 have an analogy for you guys about what Mr. Laubshire is
14 saying. In a case where you are just going around and
15 then is from Lieutenant Stribble's perspective, going
16 around collecting drug evidence. Let's just say this body
17 cam footage was here for y'all. This is probably a little
18 bit about how it would be like. Mr. Bentley, if you
19 could, play that little video.

20 (Whereupon, a video was played for the jury.)

21 MR. DANIEL: Okay, now again, that was very quick.
22 And I picked up and that was me at home, my wife is going
23 to kill me for videoing our messy living room, she didn't
24 know I did that. I went around and I seized three items,
25 I collected a TV remote on the coffee table. I collected

1 another TV remote on one of the love seats and then lastly
2 I collected an iPhone. So the first item I collected was
3 the TV remote on the coffee table. There is a photograph
4 I took. The next remote, Mr. Bentley, please. There is a
5 photograph I took of the second remote I seized. And then
6 the third photo of the iPhone, there is the iPhone. I
7 wish we had that video. I know I am being a little, I
8 better stop. I believe that argument is, does not hold
9 water. I am sorry and that is why I say it in a slightly
10 sarcastic way but I am trying to make a point about those
11 photographs accomplish the same thing. There is no
12 meaningful difference. And I would argue just the
13 opposite that, in fact, the photographs do a better job.
14 And if you like watching paint dry, you would like
15 watching the body cam footage of Lieutenant Stribble
16 walking around for about two hours around the property,
17 chitchatting with other officers. That is what Mr.
18 Laubshire is saying, is the critical evidence is missing
19 and without that body cam footage you need to acquit,
20 disregard everything else, disregard all the evidence that
21 that home is his, that those drugs belong to him, that all
22 of that paraphernalia suggest that those, that drug
23 evidence is his. Disregard all of that just because they
24 let the body cam footage accidentally, unintentionally
25 purge from their system after 18 months. And, again, we

1 had a court shut down for pretty much a year, over a year
2 in some respects if you think about it. But things fell
3 through the cracks, it was a mistake but in any event,
4 even if we had the body cam footage, I don't even know if
5 I would want to play it. And I don't know if you would
6 want to sit through it. I think it would transform a two
7 day trial into a week long trial unnecessarily, especially
8 if you wanted to watch the body cams of the other six
9 officers there. And, again, even if all of their body
10 cams are activated you still couldn't account for the
11 whereabouts of the other officers. I mean, they would all
12 have to be in the same room together and move to the next
13 room, all six of them and all look at them with the body
14 cams. And, is everybody accounted for. I would just ask
15 y'all, respectfully of course and this case will be in
16 your very capable hands soon, just to rise above any
17 distractions, rise above any irrelevant matters and focus
18 on the evidence at hand and really only go where the
19 evidence leads you. And Kendrick Blackwell is on trial.
20 I think Mr. Laubshire in his opening statement said that,
21 really the State is on trial. But you know there is an
22 old saying in the legal community, if the facts are
23 against you argue the law. If the law is against you
24 argue the facts. If they are both against you, put
25 something else on trial. Isn't that exactly what Mr.

1 Laubshire has done. Did he not put Lieutenant Stribble on
2 trial, did he not put Major Dennis on trial. That
3 trailer, full of drug evidence but yet lets focus on the
4 lack of body cam footage. That is missing the forest for
5 the trees if there was. The epitome of a technicality
6 which, it is a technicality that has no real meaningful
7 distinction, whether you have body cam or photos. But I
8 submit to you you have photographs and you have the
9 credibility of all the witnesses which is more than enough
10 to decide this case. So, again, I have never served on a
11 jury. You guys are residents of Newberry County, this is
12 your community. You are the only ones to pass judgment,
13 who can pass judgment on guilt or innocence, matters of
14 fact for the jury. And when someone such as Kendrick
15 Blackwell is charged with a crime of trafficking
16 methamphetamine, it is going to be your call. I would
17 just inform you to stay focused on the evidence. And,
18 again, only go where the evidence leads you. And if you
19 can take a fair, reasonable look at the evidence, it is
20 our position, I submit to you the only possible verdict
21 that would speak the truth in a matter such as this is a
22 verdict of guilty. Thank you so much for your time and
23 attention.

24 THE COURT: Thank you, Solicitor. Mr. Laubshire, are
25 you ready with your closing?

1 MR. LAUBSHIRE: Yes, Your Honor, may it please the
2 Court?

3 THE COURT: Sure.

4 MR. LAUBSHIRE: Good afternoon, ladies and gentlemen.
5 Like I told you from the beginning of this trial, this
6 case is not just about what they told you, it is also
7 going to be about what they didn't tell you. And some
8 stuff they tried to keep hidden in this case. I told you
9 about this one-sided wholly executed, horribly handled
10 investigation. And you heard Investigator Stribble
11 testify about this case. I submit, that is a text book
12 version of a horribly handled investigation into this
13 case. There is many things wrong with this case, not just
14 this silliness about this crime scene tape demonstration
15 but I will get to that later on. As you watched this
16 trial, it was a very short trial so I want to put two
17 things put into this closing early on that I want you to
18 take with you throughout my entire closing. One, I heard
19 the testimony and you heard the testimony. And what I am
20 doing here, I know this is called closing argument but I
21 am not here to argue with anybody, I am here to give you
22 some tools, arm you with some ways you can use this
23 material. You heard the material, there is no way for me
24 to tell you different, you heard it yourself. I am just
25 going to try and give you some high points about what I

1 saw and if you remember it differently you go with what
2 you remember, not with what I say. This is the case you
3 heard. Also, anything I say about the law, if the Judge
4 tells you different you go with what the Judge says, not
5 with what I say. This isn't evidence in the case. They
6 tried to keep things hidden from you, kind of like a magic
7 show where you only get to see what they want you to see.
8 You never get to go behind the curtain and look behind the
9 stage. There is a reason that when you go to a magic show
10 all the seats are on one side, no one sits on the sides of
11 the magic show or behind like a concert, they sit all in
12 the front. That is a smart thing for a magician to do,
13 make sure you only get to see what he wants you to see.
14 The Prosecution has presented to you in their entire
15 closing argument excuses, weak explanations and all kinds
16 of justifications for why they didn't do what they were
17 suppose to do. And in your regular life, if you ever
18 catch anybody doing something, catch them in a lie, catch
19 them doing something dishonest, you can always tell it is
20 a lie. And the reason you can tell is because they spend
21 the next chunk of time trying to convince you otherwise.
22 That is how you can tell someone is lying, they put a lot
23 of effort into showing that they are telling you the
24 truth. Someone is telling the truth, bam, there it is, we
25 are done. You don't like it, too bad. The truth is the

1 truth. Someone spends a lot of time trying to convince
2 you otherwise. That should make your antenna go off,
3 because something is going on. The Prosecution says they
4 are not on trial but yet he tells you at the beginning of
5 his closing, all the burden is on them. This is their
6 burden to meet, their case. But he wants to try to put
7 Mr. Blackwell on trial, that is not the case. We have no
8 burden to meet, it is their day in court. I can't go over
9 the entire case with you. The good news is I don't have
10 to, it is a one day trial and you heard all the evidence.
11 We don't have time to go over all the evidence one piece
12 at a time. So I am not going to pull up any of the
13 evidence pieces, you will have all the evidence back there
14 with you and you heard all the testimony. I do ask that
15 you go through it very, very carefully. And it is easy to
16 get lost when you are looking and going between your
17 jurors back and forth in this case. The first thing you
18 have got to remember if you do get lost is that Mr.
19 Blackwell is presumed innocent. And one good way to
20 remember that when you go back and deliberate this case in
21 the jury room is they give you a piece of paper, write
22 that down and put it in the middle of the table so you
23 never forget while you are deliberating the facts in this
24 case and going over it, he is presumed innocent in this
25 case. The Prosecution talked about reasonable doubt. And

1 they put up a chart, they talked about it and they discuss
2 it a lot in law school. And when you talk about
3 reasonable doubt, it is hard to decide what is reasonable
4 doubt and how to really use it. I think law school says
5 it is any doubt for which a reasonable person would
6 hesitate to act. Well, who is a reasonable person and
7 what is going to cause them to hesitate to act. I don't
8 know, it is really hard to understand for me. You may get
9 it much easier. But I think one way to do this is to do
10 it like this. Let's take the facts of the case, let's
11 hold them over here and talk about them all in a minute
12 briefly. This is just a pill bottle full of ticktacks
13 that I brought this morning. Watch a lot of TV and on
14 there they are always talking about this drug, that drug
15 or what is good for that or what is good for this and
16 there is all this new genetics things for men and women,
17 all of these things that will help your health. All FDA
18 approved, all good. Following down this for just a
19 second. Let's believe this pill bottle contains new
20 drugs, has been put out on the market. It has the health
21 benefits, has all the good stuff go up and all the bad
22 stuff go down, increase longevity, everything else that is
23 good. Let's just make believe that is true in this
24 bottle. Probably if there is enough evidence about it and
25 it has been approved people might just start taking it

1 with little or no hesitation. That is these pills. They
2 all look exactly the same. But this handful of pills
3 here, these pills also look just like those pills in this
4 bottle, can't tell the difference, exactly the same. Now
5 in this case we have the inception of a case beginning,
6 right at the beginning. The officers get a search warrant
7 and go to this house. There is a meeting, somewhere in
8 the neighborhood eight, nine officers that are going to go
9 to this house and do the search warrant. They get to the
10 house and they say they have enough officers, yet when
11 they get to the house and knock on the door no one can
12 articulate who got these subjects out of the house, who
13 goes into the house, who does the search, no one is held
14 accountable for this. There is no crime scene log to say,
15 hey, officer A, B, C, D, E, all here, assigned to this job
16 doing this thing. And no one puts up this tape, secure
17 this area. I am not talking about putting crime scene
18 tape on every individual piece you find in the house. I
19 am talking about like everyone knows they do, you put
20 crime scene tape up around the entire house. If you don't
21 want to do that, fine. They said may but you also heard
22 they could draw lines, use cars, use officers. No
23 accountability of anybody being assigned to the perimeter.
24 No accountability for anybody coming up, going to the
25 scene, doing anything. No such document ever existed in

1 this case. They don't have it, they didn't do it. It is
2 in their policy. I didn't write the policy, Mr. Blackwell
3 didn't write the policy, the Sheriff wrote the policy.
4 The Sheriff has got this policy for a reason. These
5 things don't happen so we don't have this issue to argue
6 to you at trial. I shouldn't be arguing this, I shouldn't
7 be having to argue this. And the Government, they didn't
8 do the first basic thing you do in every single crime
9 scene, there shouldn't even be an issue. This is
10 non-issue, it is the rules, trained for it, it is in their
11 policy, they didn't do it. They want to make light of it,
12 it wasn't a big deal. If it wasn't a big deal they
13 wouldn't have a policy for it. It is a huge deal, it is a
14 huge deal so at the beginning of this if something goes
15 wrong in that house, there is an irregularity, find out
16 who did it. That pill looks just like the others. There
17 is just one pill in the bottle. I still may go in there
18 and may take it. Cyanide is dangerous, these cyanide
19 pills will kill you, could kill this case. Now, leaving
20 alone the crime scene tape, let's go on to the issue of
21 this body cam. I almost guarantee you this video only
22 shows good things of the Prosecution. And beyond that big
23 screen right there, projection of that bag wall, they
24 would have it here, that wouldn't be gone for a second.
25 They want to tell you, don't worry about that, don't worry

1 about that, we don't need those videos. Not one video,
2 not two videos, potentially eight different videos from
3 eight different officers. And they want to insult you and
4 tell you these pictures are just as good and they want to
5 show you a demonstration of a home movie of the Prosecutor
6 walking around his house picking up remotes. They want to
7 compare that to the photos. Let me ask you this. What if
8 you had that entire video, he said it was very short, but
9 if we had the entire video and we had a video of his wife
10 planting the remotes. We don't have that, they destroyed
11 that. They didn't have any trouble with that video, as a
12 matter of fact, we asked them to preserve it. We asked
13 them for 14 months to give us that video. They didn't do
14 it. We asked about calling SLED to get their videos.
15 They didn't do that. As a matter of fact, they didn't
16 call a single SLED agent to the stand who is at that scene
17 to verify, to say yeah, they don't need all of this stuff.
18 Crime scene logs, who needs them. They don't need videos.
19 You know why they didn't do that, because they knew SLED
20 was going to tell you something different. And that was
21 going to be this is all necessary, it is all required.
22 They didn't follow policy, there is no quality control
23 here. That is why they don't have any of those SLED
24 witnesses. That is five agents, the same five agents, the
25 Major at the Sheriffs Office sat there and told you he

1 won't vouch for their honesty and integrity. Why not.
2 That is what he told you. I can go on all day about this
3 video. Let's just put in, in this one pill, in the
4 bottle. The testimony by Stribble and Major Dennis told
5 you the reason for these cameras is because of police
6 impropriety across the nation, across the nation. There
7 are so many cases out there, that if we didn't have body
8 cameras, there had been some seriously in-just results in
9 the case. We even have one in our State that prompted the
10 requirement to be in body cams. Didn't happen in
11 Nebraska, didn't happen in California. Police caught a
12 cell phone video committing a murder, a murder and lied
13 about it. But for that video it would never have come to
14 life. And they have the audacity to tell you, why
15 wouldn't you believe if the Major told you, there is no
16 impropriety here. Charleston, they said there was no
17 impropriety either, they killed that man.

18 MR. DANIEL: Your Honor, this is a little
19 inflammatory.

20 THE COURT: Argue the facts. I do allow a little
21 leeway in closing. Try to stick with the facts.

22 MR. LAUBSHIRE: I am telling you they wouldn't have
23 found, about these cameras, they wouldn't have found -- I
24 am sorry, we have to strike. The cameras aren't necessary
25 because they have photos. But as you can see in the photo

1 he showed you, you can only see camouflage, you don't know
2 it is. We still don't know who found what or where they
3 found it. Not a single crime scene log indicates.
4 Officer X was in the kitchen and he found this. And basic
5 Milton Bradley war games, we know include Professor Plum
6 is in the kitchen with a candle stick. We didn't even get
7 that. We don't know if who it, it is just in the house.
8 It would have been great if we had these videos, we not
9 only know who found it, where they found it, how they
10 found it. And the most important thing, if they planted
11 it in the house we would know that. We don't have that,
12 we didn't get that benefit. Let's put that pill of
13 cyanide in the bottle. Ask about fingerprints. Had a
14 fingerprint tech on the scene, didn't attempt to make any
15 kind of fingerprints on these glass containers, bottles,
16 anything. Not one single attempt. That is kind of a
17 small thing, like a crime scene tape. Let's put that in
18 there with them doing a sketch of the scene, they didn't
19 do that either. That is in their policy and I don't think
20 it makes a hill of beans either way. Well, let's put
21 those two together because they are not that big. Let's
22 make them one pill. It would be nice to have that though.
23 The search warrant indicated they were going there to find
24 drugs. It also indicated they were going there to find
25 cell phones and anything to do with drugs. So you found

1 some drugs, they say they found a drug dealer. But a cell
2 phone. How in the world are you in a business selling
3 drugs without a cell phone. Has \$2,000.00 dollars in
4 cash, could have a cell phone. I submit to you, they
5 didn't have a cell phone because there is no cell phone
6 that has any good evidence on it linked to him to say he
7 is doing anything wrong. Do you know what the cell phone
8 is. The cell phone is the one single piece they can't do
9 anything with. They can believe in videos, they can't go
10 to the phone company and change anything on the cell
11 phone. So if it ain't there it ain't there. That is why
12 we don't have a cell phone. Just about every drug case I
13 have ever been involved in has a cell phone, more than
14 one; two or three, maybe even five. Not a single cell
15 phone in this case. Another pill. Ms. Sims was in the
16 house when the police got there. Ms. Sims came to
17 testify, surprisedly, I was shocked, with charges pending
18 over her head in the office of the Solicitor's office
19 prosecuting the crime, she testified that it wasn't her's.
20 No kidding. Cross-examine, I asked her was she trying to
21 help herself and she said yes. I asked her if she was
22 trying to get her case dismissed and she said yes.
23 Without Counsel present, she met with the Solicitor.
24 Without Counsel she came to court to say it wasn't her's.
25 I was not shocked, I don't think you would be either or

1 should be. Ms. Sims to me is just trying to get her case
2 dismissed and has no value to this case at all. They
3 showed you an ID card belonging to Mr. Blackwell. And if
4 you recall, on cross-examination of Stribble, I showed him
5 a photograph that they presented to me that was found in
6 that house of somebody else, another person, you don't see
7 that anywhere in evidence. They didn't bring that ID to
8 put it up here. They put it on the screen, admitted they
9 found it, took a picture and they didn't tell you about
10 it. You didn't hear about that until I brought it up. As
11 a matter of fact, a lot of things weren't brought up until
12 I brought them up. I don't even think they brought up the
13 body camera until I addressed it. The missing ID, the
14 missing guy who was never investigated, who was just ruled
15 out. This was really for demonstrative purposes only. I
16 am not going to be able to go through the entire case one
17 at a time, each individual one. I am sure you remember
18 all of them. The examinations, the cross-examinations,
19 very particular, very deliberate and you heard them all
20 yesterday. From the beginning I asked you, are you
21 willing to take the pill when they were healthy pills.
22 After putting eight other pills that are cyanide how
23 willing would you be to take a pill out of this bottle
24 now. If you would not, even when there was just one, that
25 is what reasonable doubt actually is. That is a

1 hesitation to act. If you would not take the pills he is
2 not guilty. How do we measure something like not guilty.
3 It is not just black and white, not guilty. It is a
4 little more than that. You would have to have some way to
5 measure this between guilty and not guilty. I like
6 baseball. I know the difference between the bases. So
7 when baseball people try to train themselves, they try to
8 get that speed up for that short time. One good way to do
9 this, at least for me to understand between guilty and not
10 guilty is to determine what is between those two bases.
11 So if I were to start right here saying this position is
12 the not guilty position, right here. I take a step back,
13 I am right here but I am not guilty. Less then likely, I
14 don't want to trip over this crime scene tape. Unlikely,
15 probably not guilty, maybe not guilty, perhaps not guilty.
16 All the way over here, you have some suspicious, maybe
17 guilty, maybe possibly guilty, probably, perhaps. I am
18 way over here. This is highly likely. How about all the
19 way over here. Let's make this line, to be guilty.
20 Between here and there is a pretty good distance. We can
21 fill up this entire section with the evidence in this case
22 with no hangups and hurtles to get over. That is the
23 difference between guilty and not guilty. It is not just
24 black and white. There could be a lot of things in there,
25 maybe he is but there is this major issue and we don't

1 know the answer to that question. And when we don't know
2 the answer to those questions, if there is any doubt you
3 need to decide that Mr. Blackwell, find him not guilty. I
4 hope these two things were helpful to you for you to be
5 able to get this evidence, go back to the jury room and go
6 through it carefully. And I do hope you come back with a
7 verdict of not guilty. And I think that verdict is
8 important for two reasons. One because it is the only
9 right verdict. But for two, it comes from the testimony
10 of Major Dennis, goes back to the video. He said he paid
11 a price for this, we went on and asked him about this
12 paying the price. Who paid the price. We heard nobody
13 was disciplined, we heard nobody had any hearings or
14 sanctions placed on them at their job for this problem.
15 But he said he paid a price. I don't know what price that
16 is but the price he shouldn't pay is this case being
17 dismissed, Mr. Blackwell being found not guilty. That is
18 the price that should be paid of not doing investigation,
19 for failing to give us the evidence and trying to hide
20 other pieces of evidence to distract. That is not the way
21 this process is suppose to work. Every one of these
22 issues I am arguing, I do agree with the Solicitor. I
23 shouldn't be arguing them, they should not be issues.
24 There should never be a case in a criminal matter where
25 there is a video and it is deleted. That shouldn't be an

1 issue, that shouldn't even be a criminal case. They
2 should dismiss it themselves. Maybe they were too busy
3 dismissing the case against Ms. Sims to guarantee her
4 testimony to come in. It hasn't been presented to the
5 Grand Jury yet, they are the ones that present it to the
6 Grand Jury. How convenient. Two short things I want to
7 talk to you about before I finish this closing argument.
8 Number one, before you make your final decision in this
9 case, thinking about the facts, thinking about everything,
10 using these demonstrations to help you out, maybe not. I
11 want you to think about what you saw here. And I want you
12 to take yourself out of the position you are sitting in
13 and I want you to put yourself in Mr. Blackwell's spot,
14 fully in his spot. And I want you to think about this
15 case, I want you to think, what happened here. Is it
16 really fair, is this really fair the way they are doing
17 this case. Not presenting that ID of that other person
18 and bringing them in here; not doing any investigation to
19 find out who all was in that house; there is a whole lot
20 of story of here about who lives in this house. There is
21 no doubt, irrefutable evidence he has a connection to this
22 house but he has other houses too. No doubt about that
23 either. The question is, are these substances his. I
24 submit to you there isn't any. But I want you to put
25 yourself in his position and think, is this really a fair

1 process. Did they do justice in this case, is this
2 proper, was everything done the way it was suppose to be.
3 I submit to you it wasn't. And I would not like to be in
4 his shoes in this case with this evidence. It is not
5 fair, all they did was keep good things, push all the bad
6 out, that is what they presented to you. Lastly, like the
7 Prosecution said, anything that I did that you didn't
8 like, you can give me a bad review, talk bad about me to
9 your neighbors. But please don't put any of that on Mr.
10 Blackwell, he has nothing to do with the presentation of
11 this case, he has nothing to do with the objections, the
12 arguments. That is solely on Counsel's shoulders. So
13 anything about me you don't like please just put that
14 directly on me and leave him out of that equation. There
15 is no doubt that I will sit down after concluding this,
16 sit there and think, oh man, I wish I would have said
17 that. This didn't go over as good as I thought, or maybe
18 I should have said this. The jury would really like to
19 hear this. Well, I can't get back up and tell you
20 anything, neither can the Prosecution. When I tell the
21 Judge I am done, I am done, that's it. But I trust all of
22 you, that is why we selected you. And you heard all the
23 testimony and I trust you will remember it, deliberate
24 accurately and weigh these things. And at the end you
25 will come back to the only true verdict in this case which

1 should be not guilty because Mr. Blackwell is not guilty,
2 not based on that evidence. Maybe had they made a better
3 case, maybe if they had done these things they were
4 suppose to do, maybe we could have got somewhere closer to
5 here. We are way over there with this investigation.
6 That is where we are, it is not just about Mr. Blackwell,
7 it is about the State and their burden, did they make it.
8 I submit to you, they did not, not with this case, not
9 with this investigation. Thank you very much for your
10 time.

11 THE COURT: Thank you, Mr. Laubshire. Ladies and
12 gentlemen, we are going to take a short little break
13 before I bring you back out and charge you the law that
14 applies to this case. Go back to the jury room and we
15 will get you back in. Remember, no discussions.

16 (Whereupon, the jury was excused from open court for
17 a break.)

18 THE COURT: We will take a short break. Taylor, you
19 were at 35; and Michael, you were at 39. So pretty
20 consistent time.

21 (Whereupon, a short break was taken.)

22 THE COURT: Let's, Madam Clerk, can you bring the
23 jury, please.

24 (Whereupon, the jury came into open court at
25 approximately 3:10 p.m.)

1 THE COURT: Let the record reflect the jury is back
2 in. Ladies and gentlemen, I will now charge you the law
3 that applies in this case. Is this shield okay, is that
4 okay because it is screwed in so we will just leave it up
5 if it is not too annoying to you.

6 I will now charge you the law that applies to this
7 case. You must consider the charge as a whole and not
8 focus on some portions to the exclusion of other portions.
9 The indictment charges the Defendant with trafficking
10 methamphetamine, 28 grams or more. I remind you, the fact
11 that the Defendant was arrested, charged and indicted in
12 this case is not evidence in this case and cannot be
13 considered by you as evidence of guilt in this case; nor
14 does it create any presumption or inference of guilt.
15 This document is simply the formal written instrument
16 which contains the charge made against the Defendant.
17 This is a formal document by which this case is brought
18 into this court.

19 The Defendant has plead not guilty to this indictment
20 and the plea puts the burden on the State to prove the
21 Defendant guilty. A person charged with committing a
22 criminal offense in South Carolina is never required to
23 prove himself innocent. I charge you that it is an
24 important rule of the law that the Defendant in a criminal
25 trial, no matter what the seriousness of the charge may

1 be, will always be presumed to be innocent of the crime
2 for which the indictment was issued unless guilt has been
3 proven by evidence satisfying you of that guilt beyond a
4 reasonable doubt. This presumption of innocence does not
5 end when you begin your deliberations but it accompanies
6 the Defendant throughout the trial unless you reach a
7 verdict of guilt based on evidence satisfying you of that
8 guilt beyond a reasonable doubt. This presumption of
9 innocence is like a robe of righteousness placed about the
10 shoulders of the Defendant which remains with the
11 Defendant unless it has been stripped from the Defendant
12 by evidence satisfying you of the Defendant's guilt beyond
13 a reasonable doubt. This presumption of innocence is not
14 merely a theory, it is not just a legal phrase, it is a
15 substantial right to which every Defendant is entitled
16 unless you, the jury, are satisfied from the evidence of
17 the Defendant's guilt beyond a reasonable doubt.

18 Once again, the State has the burden of proving the
19 Defendant guilty beyond a reasonable doubt. Some of you
20 may have, in the past, served as jurors in civil cases
21 where you were told that it is only necessary to prove
22 that a fact is more likely true than not true, such as by
23 the greater weight or the preponderance of the evidence.
24 In criminal cases the State's proof must be more powerful
25 than that. It must be beyond a reasonable doubt. Proof

1 beyond a reasonable doubt leaves you firmly convinced of
2 the Defendant's guilt.

3 Now, Madam Forelady and ladies and gentlemen of the
4 jury, we know that there are very few things in this world
5 that we know with absolute certainty and in criminal cases
6 the law does not require proof that overcomes every
7 possible doubt. If based on your consideration of the
8 evidence you are firmly convinced that the Defendant is
9 guilty of the crime charged you must find the Defendant
10 guilty. If on the other hand, you think there is a real
11 possibility that the Defendant is not guilty you must give
12 the Defendant the benefit of the doubt and find him not
13 guilty.

14 During this trial, ladies and gentlemen, you and I
15 have had certain duties to perform. As the trial Judge,
16 it has been my responsibility to preside over the trial of
17 this case and also I have the duty to rule on the
18 admissibility of the evidence offered during this trial.
19 You are to consider only the competent evidence before
20 you. If there was any testimony ordered stricken from the
21 record in this case during this trial, and there was
22 several times, you must disregard that testimony. You are
23 to consider only the testimony which has been presented
24 from the witness stand, any exhibits which have been made
25 a part of the record in this case and any stipulations of

1 Counsel.

2 I have the additional duty to charge you the law that
3 applies to this case. As the presiding Judge, I am the
4 sole Judge of the law in this case. And it is your duty
5 as jurors to accept and apply the law as I now state it to
6 you. If you already have any ideas of what the law is or
7 what the law ought to be and it does not agree with what I
8 now tell you the law is you must abandon your idea because
9 you are sworn to accept the law and apply the law exactly
10 as I state it to you.

11 In every case tried in this court before a jury, the
12 jury becomes the sole and exclusive judge of the facts in
13 the case. A trial Judge cannot intimate, state, comment
14 on or make any statement to a trial jury about the facts
15 in the case. Since you, the jury, are the sole Judge of
16 the facts in this case you are not to infer from what I
17 said during the progress of this trial in ruling upon the
18 admissibility of evidence or otherwise; or anything that I
19 say now during the course of this instruction to you that
20 I had any opinion about the facts in this case. The law
21 does not allow me to have an opinion about the facts in
22 this case. This is a matter solely for you, the jury, to
23 determine as jurors and it is your duty to determine the
24 effect, the value and weight of the evidence presented
25 during this trial.

1 Now, Madam Forelady and ladies and gentlemen of the
2 jury, there are two types of evidence which are generally
3 presented during a trial; direct evidence and
4 circumstantial evidence. Direct evidence directly proves
5 the existence of a fact and does not require deduction.
6 Circumstantial evidence is a proof of a chain of facts and
7 circumstances indicating the existence of a fact. Crimes
8 may be proven by circumstantial evidence and the law makes
9 no distinction between the weight or value to be given to
10 either direct or circumstantial evidence. However, to the
11 extent the State relies on circumstantial evidence, all of
12 the circumstances must be consistent with each other. And
13 when taken together point conclusively to the guilt of the
14 accused beyond a reasonable doubt, these circumstances
15 merely portray the Defendant's behavior as suspicious, the
16 proof has failed. The State, once again, has the burden
17 of proving the Defendant guilty beyond a reasonable doubt.
18 This burden rest with the State regardless of whether the
19 State relies on direct evidence, circumstantial evidence
20 or some combination of the two.

21 Necessarily, ladies and gentlemen, you must determine
22 the credibility of witnesses who have testified in this
23 case and the evidence presented. Credibility simply means
24 believability. It becomes your duty as jurors to analyze
25 and to evaluate the witnesses and the evidence and

1 determine the credibility of the witnesses and the
2 evidence. In determining credibility of witnesses who
3 have testified in this case you may believe one witness
4 over several witnesses; or several witnesses over one
5 witness. You may believe a part of the testimony of a
6 witness and reject the remaining part of the testimony of
7 that same witness. You may believe the testimony of a
8 witness in its entirety or reject the testimony of a
9 witness in its entirety. You may consider whether any
10 witness has exhibited to you any interest, biased,
11 prejudiced, or other motive in this case. You may also
12 consider the appearance and manner of a witness allowed on
13 the witness stand.

14 Now, ladies and gentlemen, I instruct you and
15 emphasize that the fact that the Defendant did not testify
16 is not a factor to be considered by you in any way in your
17 deliberations and your consideration on the question of
18 the guilt or the innocence of the Defendant. It must not
19 be considered by you in any manner whatsoever. The
20 Defendant has the constitutional right to remain silent
21 and the assertion of this right must not be considered by
22 you in your deliberations. I repeat, under the oath that
23 you took previously, you are to draw no conclusion
24 whatsoever from the fact that the Defendant in this case
25 did not testify. The fact that the Defendant did not

1 testify should not even be discussed in the jury room.
2 The burden of proof, as I stated to you, is on the State.
3 The Defendant is not required to prove his innocence. The
4 burden of proof remains on the State to prove guilt beyond
5 a reasonable doubt.

6 Now, ladies and gentlemen, in order to establish
7 criminal liability, criminal intent is required. For
8 example, the mental state required to be proven by the
9 State for a particular crime might be purpose, intent,
10 knowledge, recklessness or credible negligence. Criminal
11 intent must be proven by the State beyond a reasonable
12 doubt. Criminal intent is always a matter that must be
13 determined by the jury from the circumstances surrounding
14 the situation. Now there is no way to prove intent to a
15 mathematical certainty. There is no way medical science
16 can dissect a person's brain and determine what the person
17 had in mind. So the law says that criminal intent may be
18 inferred from the circumstances shown to have existed.
19 This is how you make a determination of whether or not the
20 element requiring intent was present. It is not necessary
21 to establish intent by direct or positive evidence, but
22 intent may be established by inference in the same way as
23 any other fact, by taking into consideration the acts of
24 the parties and all the facts and circumstances of the
25 case. Criminal intent is a mental state, a conscious

1 wrongdoing. It is up to you to determine what the
2 Defendant intended to do based on the circumstances shown
3 to have existed.

4 Once again, ladies and gentlemen, the Defendant is
5 charged with trafficking methamphetamine, 28 grams or
6 more. The State must prove beyond a reasonable doubt that
7 the Defendant knowingly sold, manufactured, cultivated,
8 delivered, purchased, brought into this State, provided
9 financial assistance; or otherwise aided, abetted,
10 attempted or conspired to sell, manufacture, cultivate,
11 deliver, purchase or bring into this State which knowingly
12 in actual or constructive possession or knowingly
13 attempted to become in actual or constructive possession
14 of methamphetamine. To prove possession the State must
15 prove beyond a reasonable doubt that the Defendant had
16 both the power and the intent to control the disposition
17 or use of the methamphetamine. Possession may be either
18 actual or constructive. Actual possession means that the
19 methamphetamine was in the actual, physical custody of the
20 Defendant. Constructive possession means that the
21 Defendant had dominion and control or the right to
22 exercise dominion or control over either the
23 methamphetamine itself or the property on which the
24 methamphetamine was found. Mere presence at the scene
25 where the drugs were found is not enough to prove

1 possession. Lastly, two or more persons may have joint
2 possession of the drugs. The State must also prove beyond
3 a reasonable doubt that the amount of the methamphetamine
4 or any mixture containing methamphetamine was 28 grams or
5 more but less than 100 grams.

6 Now, ladies and gentlemen, I realize what I just read
7 to you is a lot and that is why I will give a copy of what
8 I just read to you for you to take back, or take down
9 rather, to the jury room and use it in whatever manner, if
10 any, you feel like you need to use it. Now, I did notice
11 on the first page of the, actually the second page, that
12 the word, indictment, is plural; it should be singular,
13 without an S, it is a little typo. And it also refers to
14 charges where that should also be singular because there
15 is only one charge in this case. Madam Forelady and
16 ladies and gentlemen of the jury, the verdict that you
17 reach must be unanimous among the twelve of you. And
18 there is a verdict form and I am going to walk down, Madam
19 Forelady, if I don't trip on all the cords there. I will
20 get Mr. Bentley to help me if I need it. I will come down
21 and show you how to complete the verdict form. You can
22 keep your seat right where you are. It is a very simple
23 fill out and I will walk down and show it to you. This
24 just shows the caption of the case, State of South
25 Carolina versus Kendrick Blackwell, this is the indictment

1 number. It says, as to the defense of trafficking
2 methamphetamine, 28 grams or more. And then the
3 indictment number once again. And then, we, the jury
4 unanimously find the Defendant not guilty or guilty.
5 Which ever verdict you reach put your initials on the
6 appropriate line, sign it and put today's date. Now, here
7 is what I want you to do. I want all 13 of you to go back
8 to the, I want to say back, I am used to be right here.
9 Go down to the jury room, don't start your deliberations
10 yet. I want to talk to the lawyers one more time and make
11 sure we don't have any corrections or additions to the
12 jury charge. Okay. Now, if we do not and if the Bailiff
13 or the deputies or the Clerk brings you the exhibits that
14 are in this case, the verdict form and the copy of the
15 charge that will be your cue for two things to happen. I
16 need for the alternate to be brought back up to the
17 courtroom for further instructions; and secondly, you
18 begin your deliberations. Okay. Once you have reached a
19 unanimous verdict in this case just knock on the door, let
20 the bailiff know that you have reached a verdict and then
21 we will bring you back to receive it. Don't start your
22 deliberations yet. Okay. All 13 of you go downstairs,
23 please.

24 (Whereupon, the jury was excused from open court at
25 approximately 3:25 p.m.)

1 THE COURT: Okay. Other than what has already been
2 noted on the record, does the State have any exceptions or
3 additions to the Court's charge?

4 MR. DANIEL: No, Your Honor.

5 THE COURT: And other than what has been noted on the
6 record, does the Defense have any exceptions or additions
7 to the Court's charge?

8 MR. LAUBSHIRE: No, I don't. I just want to say that
9 I renew my same motion.

10 THE COURT: Very good. We are going off the record,
11 the lawyers come up here and make sure we have all the
12 exhibits, that you believe are into evidence.

13 (Whereupon, the Court Reporter and the Attorneys go
14 over the exhibits for this case.)

15 (Whereupon, the alternate for this case came into the
16 courtroom and was dismissed from the trial of the
17 case.)

18 (Whereupon, the jury started deliberations at
19 approximately 3:30 p.m.)

20 THE COURT: All right. It is my understanding that
21 the jury reached a verdict about ten minutes after they
22 got it. Let's bring the jury on up and proceed further.

23 (Whereupon, the jury came into open court with the
24 verdict at approximately 4:05 p.m.)

25 THE COURT: Let the record reflect the jury is back

1 in. Madam Forelady, without telling me what the verdict
2 is, have you reached a verdict in this case?

3 MADAM FORELADY: Yes.

4 THE COURT: And is the verdict unanimous among the 12
5 of you?

6 MADAM FORELADY: Yes.

7 THE COURT: Okay. If you will hand me the verdict
8 form, please. Mr. Blackwell, will you please stand.
9 Madam Clerk, will you publish the verdict, please.

10 CLERK OF COURT: The State of South Carolina versus
11 Kendrick Tremain Blackwell. As to the defense of
12 trafficking methamphetamine, 28 grams, more or less;
13 indictment 2022-GS-36-0002. We, the jury, unanimously
14 find the Defendant, Kendrick Tremain Blackwell guilty.
15 Madam Forelady, is this your verdict, please stand.

16 THE COURT: Raise your right hand, all twelve of you,
17 if that is your verdict.

18 (Whereupon, all jurors raised their hand.)

19 THE COURT: Let the record reflect that all twelve
20 hands have been raised.

21 Does the Defense wish for individual polling to take
22 place?

23 MR. LAUBSHIRE: Yes, Your Honor.

24 THE COURT: Madam Clerk, will you take individual
25 polling of the jury. The Clerk is going to call out your

1 name and ask you whether or not that is your verdict.

2 CLERK OF COURT: Charles Avery. Is this your
3 verdict and is it still your verdict?

4 MR. AVERY: Yes, ma'am.

5 CLERK OF COURT: Andy Martinez. Is this your verdict
6 and is it still your verdict?

7 MR. MARTINEZ: Yes, ma'am.

8 CLERK OF COURT: Cole Eison. Is this your verdict
9 and is it still your verdict?

10 MR. EISON: Yes, ma'am.

11 CLERK OF COURT: Felicia Tyler. Is this your verdict
12 and is it still your verdict?

13 MS. TYLER: It is.

14 CLERK OF COURT: Austin Lanier. Is this your
15 verdict and is it still your verdict?

16 MR. LANIER: Yes, ma'am.

17 CLERK OF COURT: Anne Smith. Is this your verdict
18 and is it still your verdict?

19 MS. SMITH: Yes.

20 CLERK OF COURT: Harold Hunter, Jr. Is this your
21 verdict and is it still your verdict?

22 MR. HUNTER: Yes.

23 CLERK OF COURT: Robert Livingston. Is this your
24 verdict and is it still your verdict?

25 MR. LIVINGSTON: Yes.

1 CLERK OF COURT: Dalton Fulmer. Is this your verdict
2 and is it still your verdict?

3 MR. FULMER: Yes, ma'am.

4 COURT REPORTER: Mason Graham. Is this your verdict
5 and is it still your verdict.

6 MR. GRAHAM: Yes.

7 CLERK OF COURT: James Morris. Is this your verdict
8 and is it still your verdict.

9 MR. MORRIS: Yes, ma'am.

10 CLERK OF COURT: Telina Morris. Is this your verdict
11 and is it still your verdict.

12 MS. MORRIS: Yes, ma'am.

13 THE COURT: Thank you, Madam Clerk. Ladies and
14 gentlemen, let me thank you for your jury service, let me
15 thank you for your patience with us when we have had to
16 keep you down in your jury room maybe a little bit longer
17 than you would have liked or than we would have liked.
18 But sometimes that is necessary. I also hope that you
19 have found this experience to be an educational one for
20 you, you have learned a few things that maybe you didn't
21 know when you came into this courtroom on Tuesday. And
22 hopefully for at least some of you, you would like maybe
23 to serve on a jury again some time in the future, whether
24 it is in the criminal arena or whether it is in the civil
25 arena. Now, there will be a check that -- go downstairs

1 and they have got your checks prepared for your jury
2 service. Unfortunately State law does not provide for
3 much compensation for jury service. Don't make any plans
4 for this check. And I like to shake the hands of my jury.
5 Now, Madam Forelady, hang around just a little bit, you
6 need to sign the indictment and the Clerk will get that
7 for you. So exit the courtroom and I will come down and
8 shake your hands and then kind of linger out in the
9 hallway and so you can, they can get you your checks. You
10 are free to go, you do not need to come back tomorrow.

11 (Whereupon, the jury was excused from open court.)

12 THE COURT: Sheriff, will you put the appropriate
13 restraints on Mr. Blackwell, please.

14 Let me just mention on the record, the Clerk misspoke
15 and was not worded 28 grams, more or less; it is 28 grams
16 or more. She just, she just misspoke and I want to
17 correct and be clear on that. That is why I looked at the
18 verdict form to make sure. We will be a few minutes and
19 we will take care of sentencing.

20 (Whereupon, a short break was taken.)

21 THE COURT: Okay. I am ready for the sentencing
22 phase in this case. Is everybody ready?

23 MR. LAUBSHIRE: Yes, Your Honor.

24 THE COURT: Are you ready?

25 MR. DANIEL: We are, Your Honor.

1 THE COURT: I will hear from the State first.

2 MR. DANIEL: May it please the Court. Judge, Mr.
3 Blackwell's criminal history.

4 THE COURT: I am going to write that down so be slow
5 with it, if you would.

6 MR. DANIEL: Your Honor, really of note is a felony
7 drug conviction for Ecstasy and that was in 2018 and you
8 were the plea Judge for that, Your Honor. That was in
9 2018.

10 THE COURT: And what did he get for that?

11 MR. DANIEL: It was a probationary sentence. And I
12 couldn't tell you, Judge, just on my record whether he has
13 completed or violated, I am not sure. But he had an
14 accompany possession of a controlled substance charge from
15 the same incident. So it really counts as one conviction.

16 THE COURT: Sure.

17 MR. DANIEL: Other than that, Judge, mostly summary
18 court convictions; DUI in 2014; open container. And then
19 I see a couple of simple possessions and trespassing.
20 Judge, Lieutenant Stribble has a history with this man,
21 had been investigating him for some time. I will let
22 Lieutenant Stribble talk about how that came to be is why
23 they launched an investigation of Mr. Blackwell and that
24 property.

25 THE COURT: All right. Lieutenant Stribble, let me

1 have you sworn in. Madam Clerk.

2 Michael Stribble, being
3 first duly sworn, testified as follows:

4 THE COURT: Yes, sir.

5 MR. STRIBBLE: We received numerous complaints
6 through the community concerning this address. Through
7 four separate buys, we ended up making, you know, the
8 necessary charge in this case. It was ongoing, the
9 complaints, it was ongoing the amount of traffic up and
10 down the road in that particular house. And it was just
11 ongoing and ongoing between 2019 all the way up to when he
12 was arrested. And then when he was arrested, after that,
13 it continued until he was just arrested here recently.

14 THE COURT: Okay.

15 MR. DANIEL: And, Your Honor --

16 THE COURT: No, I was just going to ask you, do you
17 know whether or not he successfully completed probation.
18 Agent Brown, do you know that?

19 AGENT BROWN: Yes, sir. He completed on September
20 10th, 2019.

21 THE COURT: Okay. Solicitor, do you want to tell me
22 something else?

23 MR. DANIEL: Yes, Your Honor. A couple of more
24 things. Your Honor, just last month he was picked up on a
25 bench warrant and in plain view they saw more drug

1 evidence. And we just got the SLED's drug analysis
2 results, probably about two weeks ago. And it was
3 originally charged as Ecstasy but it came back as
4 trafficking amounts of methamphetamine. So he has a
5 trafficking methamphetamine from last month that is
6 pending. And he also has three pending controlled buys
7 from April 16th of 2019; April 25th of 2019; and July 23rd
8 of 2019. And, Judge, those drug analysis results indicate
9 that he was selling a combination of heroin, phenetol.
10 And these are the blue pills, Judge. And a case we had in
11 Laurens, these are the same type of blue pills that are
12 leading to fatal overdoses. And this is right near a
13 school. This is about a mile from a school. This
14 phenetol is highly lethal. And if that, that is really
15 all the controlled buys relate to, he is marketing them as
16 Oxycodone.

17 THE COURT: Right.

18 MR. DANIEL: But in reality they are phenetol and
19 they are not consistent with the pharmaceutical
20 preparation. So it is like playing Russian Roulette when
21 you take these things.

22 THE COURT: Thank you, Solicitor. Mr. Laubshire,
23 will be glad to hear from you.

24 MR. LAUBSHIRE: May it please the Court, Your Honor.

25 THE COURT: Sure.

1 MR. LAUBSHIRE: As the Court is aware, I have had a
2 very rocky relationship with my client. So my ability to
3 present some mitigating factors are a little bit hindering
4 in this case. I do have some information I will share
5 with the Court. He is 30 years old. He has completed
6 that probation. He completed the eleventh grade in high
7 school. He has no children. And that is about the extent
8 of the information that I have on Mr. Blackwell. I really
9 didn't have a whole lot of interaction with him since this
10 proceeding started. I think he may be able to share with
11 the Court some things that could be helpful. We did
12 discuss the possibility of being found guilty and having
13 to talk on his behalf to the Court which he said he wanted
14 to do. So he may be able to share more things in
15 mitigating circumstances about sentencing in this case.

16 THE COURT: Mr. Blackwell, you are already under
17 oath, when I advised you of your rights concerning
18 testimony. Just, if you will stand and just lower your
19 mask so I can hear you. I will be glad to hear anything
20 you would like to tell me, sir.

21 MR. BLACKWELL: They said the drugs were found and I
22 had people staying with me. I completed my probation, did
23 what I did. But I really wish that I can get another
24 chance. A long time of probation, classes, house arrest.

25 THE COURT: Let me just stop you. The statute

1 provides for a mandatory/minimum of seven years. That is
2 mandatory/minimum.

3 MR. BLACKWELL: I got you, I got you.

4 THE COURT: Okay.

5 MR. BLACKWELL: That is all. Thank you.

6 THE COURT: Yes sir, thank you. Mr. Laubshire,
7 anything further from you, sir?

8 MR. LAUBSHIRE: No, Your Honor. Just the motions
9 that I would like to make at the end of the record.

10 THE COURT: Okay, go ahead and make it now. I will
11 be glad to hear you.

12 MR. LAUBSHIRE: I would like to renew our motion for
13 a directed verdict in this case and the previous motions.
14 And also I would like to move to set aside the verdict for
15 a new trial based on issues that happened during the trial
16 that had to do with the mention of marijuana, the mention
17 of the smell of marijuana. And the other things that came
18 up requiring a curative instruction to the jury, to get it
19 out of their head. It was very possible they used that
20 information to decide their verdict especially since they
21 did it so quickly. So our motion for a new trial, Your
22 Honor.

23 THE COURT: So noted on the record and denied.

24 MR. LAUBSHIRE: Thank you, Your Honor.

25 THE COURT: Thank you. Credit days, of course he was

1 out for a period of time and, of course, put back in last
2 month. Does anybody have a figure to get me for purposes
3 of credit.

4 MS. BOYKIN: I believe he bonded out, it was
5 originally February 1st, I believe. So that would be two
6 days and he was picked up on a bench warrant on January
7 20th.

8 THE COURT: 36 days. Do we, can we have an agreement
9 to that.

10 MR. LAUBSHIRE: Judge, he tells me he has, he did 40
11 days including the first two days.

12 THE COURT: Would the State agree with 40 days,
13 total?

14 MS. BOYKIN: Yes, Your Honor.

15 THE COURT: Very good, thank you. Let me just first
16 note the Court appreciates the fine and hard work from
17 the, all three attorneys and how you have tried and
18 presented this case. And I do appreciate, you did a fine
19 job, I expected nothing less from the three of you.
20 Certainly I am factoring in that this is a violent and a,
21 not most serious, serious offense. But I am also
22 factoring in the fact that, Mr. Blackwell, that you have
23 not been to prison before. So that certainly is in your
24 favor. Now, I have no idea, you certainly presume to be
25 in some -- all of these charges, there are pending charges

1 that are going to have to be dealt with at some point in
2 time. So be aware that you are going to have to deal with
3 that. The sentence of the Court is that you be committed
4 to the State Department of Corrections for a period of 12
5 years. I will give you credit for 14 days, 40 days, not
6 14, 40 days that you have been incarcerated. Good luck to
7 you, sir.

8 MR. DANIEL: Thank you, Your Honor.

9 MS. BOYKIN: Thank you, Your Honor.

10 MR. BLACKWELL: Thank you, Judge.

11 MR. LAUBSHIRE: Judge, I have one more issue to take
12 up with the Court.

13 THE COURT: Certainly.

14 MR. LAUBSHIRE: There are other pending charges that
15 Your Honor mentioned. I am listed as the attorney of
16 record on for Mr. Blackwell. Throughout this trial he has
17 tried to fire me, he doesn't like me, he has issues with
18 me. I don't think that I am the best lawyer to represent
19 him. I think he may want another Counsel, a Counsel he
20 wants to retain, that he would like to have, that he
21 doesn't have. I move to withdraw as Counsel for him for
22 the remaining cases I have where I am listed as attorney
23 of record.

24 THE COURT: All right. Mr. Blackwell, concerning
25 these other charges where Mr. Laubshire is listed as your

1 attorney, do you want him relieved as your attorney on
2 those cases?

3 MR. BLACKWELL: No, I will keep him.

4 MR. LAUBSHIRE: In his best interest, Judge --

5 MR. BLACKWELL: I can relieve him, he did a good job.

6 THE COURT: All right.

7 MR. BLACKWELL: I said, he did a good job. Everybody
8 did a good job.

9 THE COURT: Okay. Let's do this. Let's keep you on
10 right now but you have the right at any time to provide a
11 motion to be relieved. And let us just kind of see how
12 things go. Is that fair enough right now?

13 MR. BLACKWELL: I said he can go ahead. I can try to
14 come up with another.

15 THE COURT: You are good for him to be relieved?

16 MR. BLACKWELL: Yes.

17 THE COURT: I am sorry, I misunderstood you, I
18 apologize. I am going to go ahead and relieve Mr.
19 Laubshire as your attorney in the other cases. And then
20 what you need to do, you are going to be in the Department
21 of Corrections and of course it is going to be a little
22 difficult for you to, for you to hire private Counsel.
23 And I don't know if that is kind of your idea or if you
24 are wanting a public defender, exactly what are you
25 wanting right now.

1 MR. BLACKWELL: I can keep him for the time being
2 then and then hire me another lawyer.

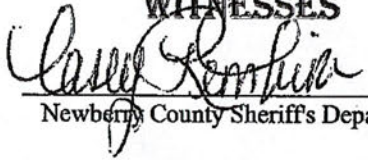
3 MR. LAUBSHIRE: What I will do, Judge. I was going
4 to file, on behalf of him, of indigent defense, to get his
5 information to them, file a notice of appeal and then they
6 can go forward.

7 THE COURT: I think you are obligated to do that.
8 Well, I think what Mr. Blackwell is suggesting is that you
9 remain right now on these other charges and see what
10 develops and see if he can get another lawyer hired or
11 certainly the Department of Corrections, he can qualify
12 for the public defender. Just kind of leave things right
13 now, certainly either side, either one of you has the
14 right to, you know, renew a motion to be relieved. Okay.
15 Just handle it in that fashion. Thank you very much. I
16 need to write on the sentencing sheet that the fine is
17 suspended. Instead of trying to fit it into the actual
18 block, let me just write on there, fine suspended. I
19 guess we probably, we need to go back on the record.

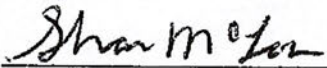
20 Back on the Kendrick Blackwell case concerning the
21 sentence. I am suspending the \$50,000.00 dollar fine.

22 *** END OF REQUESTED TRANSCRIPT OF RECORD ***
23
24
25

WITNESSES


Newberry County Sheriff's DepartmentWARRANT NUMBER
DIRECT INDICTMENT

TRUE BILL



Foreman of the Grand Jury

Date: 1-24-22

VERDICT

Foreman

THE STATE OF SOUTH CAROLINA

COUNTY OF NEWBERRY

COURT OF GENERAL SESSIONS

January Term, 2022

Indictment # 2022GS36-00002

THE STATE

vs.

KENDRICK TREMAIN BLACKWELL

INDICTMENT FOR

Trafficking Methamphetamine

SC Code: § 44-53-375(C)

CDR: 0389

I hereby waive presentment to the Grand Jury.

Defendant

Witness:

STATE OF SOUTH CAROLINA

COUNTY OF NEWBERRY

STATE

VS.

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2022GS36-00002KENDRICK TREMAIN BLACKWELLAKA: KENDRICK TREMAIN BLACKWELLRace: Black Sex: M Age: 30DOB: 01/30/1991 SS#: ██████-8046Address: ██████ Highway 219City, State, Zip: Newberry, SC 29108DL#* ██████ SID# SC01811535A/W#: DIRECT INDICTMENTDate of Offense: 01/30/2020S.C. Code §: 44-53-375(C)CDR Code #: 0389

SENTENCE SHEET

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

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

☒ CONVICTED OF or ☐ PLEADSTO: Trafficking Methamphetamine 28g or more 2nd OffenseIn violation of § 44-53-375(C) of the S.C. Code of Laws, bearing CDR Code # 0389☐ NON-VIOLENT ☒ VIOLENT ☒ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ § 17-25-45(CSC w/minor 1st or CSC w/minor 3rd)The charge is: ☒ As indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. _____ (def.'s initials)The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

100588

Taylor Daniel, Assistant
Solicitor

SC Bar #

Defendant

Attorney for Defendant

SC Bar #

WHEREFORE, the Defendant is committed to the ☒ State Department of Correction ☐ County Detention Center,for a determinate term of 12 days/months/years/Time Served☐ Youthful Offender Act not to exceed _____ years

and/or to pay a fine of \$____; provided that upon the service of _____ days/months/years/Time Served and or payment

of \$____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

The sentence shall run

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on: _____

The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by SCDOC.

40 days/months☐ To include time spent on monitored house arrest prior to trial and sentencing.☐ The Defendant Shall be Released from County Detention Center.

Pursuant to 18 U.S.C. § 922 and § 16-25-30 it is unlawful for a person convicted of a violation of § 16-25-20 or § 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

STATE VS. KENDRICK TREMAIN BLACKWELL INDICTMENT/CASE#: 2022GS36-00002**SPECIAL CONDITIONS:**☐ **PTUP** after _____ months/years**And Other Terms Listed Below:**

- ☐ Substance Abuse Counseling ☐ Completion of GED ☐ Random Drug/Alcohol Testing
- ☐ Attend Voc. Rehab. Or Job Corp ☐ No Contact with Victim ☐ Domestic Violence Intervention Program
- ☐ Mental Health Counseling ☐ May serve W/E beginning: _____
- ☐ Sex Offender Registry pursuant to S.C. Code § 23-3-430 ☐ Public Service Employment _____ days/hours
- ☐ Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.
- ☐ Other: _____

☐ **RESTITUTION** ☐ **Deferred** ☐ **Def. Waives Hearing** ☐ **Ordered**

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

Payment Terms: _____ ☐ Set by SCDPPPS

Recipient: _____

*Fine:

Fine may be pd. in equal consecutive weekly/monthly pmts. of	\$ _____ Beginning	\$ _____
§14-1-206 (Assessments 107.5%)		\$ _____
§14-1-211 (A)(1)(Conv. Surcharge)	\$100	\$ _____
§14-1-211 (A)(2)(DUI Surcharge)	\$100	\$ 100.00
§56-5-2995 (DUI Assessment)	\$12	\$ _____
§56-1-286 (DUI Breath Test)	\$25	\$ _____
§14-1-212 (Law Enforce. Funding)	\$25	\$ 25.00
§14-1-213 (Drug Court Surcharge)	\$150	\$ 150.00
§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)	\$41	\$ _____
§50-21-114 (BUI Breath Test Fee)	\$50	\$ _____
§56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$ _____
3% to County (if paid in installments)	TBD	\$ _____
☐ Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees	\$500	\$ _____
☐ § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund	TBD	\$ 8.25

TOTAL \$ 283.25

Clerk of Court/Deputy Clerk: Beverly Brubaker
 Court Reporter: Joy Holston
 SCCA/217 (07/2021)

Presiding Judge: _____
 Judge Code: _____
 Sentence Date: 2/24/22

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled “Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings.”

Respectfully Submitted,



Robert M. Dudek
Chief Appellate Defender

RECEIVED

Sep 22 2023

SC Court of Appeals

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589

ATTORNEY FOR APPELLANT

This 22nd day of September, 2023.